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ENVIRONMENTAL ASSESSMENT BOARD

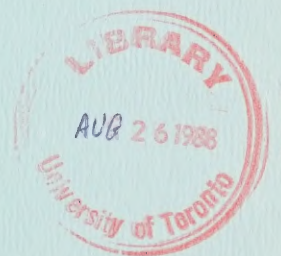
VOLUME: XXXIV

DATE: Tuesday, August 16th, 1988

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member




FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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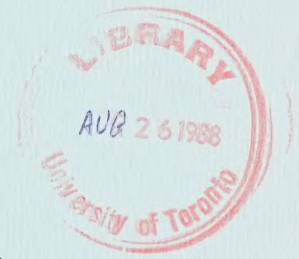
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Tuesday, August 16th, 1988,
commencing at 9:30 a.m.

VOLUME XXXIV

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH)	RESOURCES
MS. K. MURPHY)	
MR. B. CAMPBELL)	MINISTRY OF ENVIRONMENT
MS. J. SEABORN)	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN)	ASSOCIATION and ONTARIO
MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
MR. J. WILLIAMS, Q.C.	ONTARIO FEDERATION OF
	ANGLERS & HUNTERS
MR. D. HUNTER	NISHNAWBE-ASKI NATION
	and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MR. P. SANFORD)	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD)	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF
	LABOUR
MR. R. COTTON	BOISE CASCADE OF CANADA
	LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES)	ASSOCIATION
MR. R. EDWARDS)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	

APPEARANCES: (Cont'd)

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MR. B. BABCOCK)	MUNICIPAL COMMITTEE
MR. D. SCOTT)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
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MR. S.M. MAKUCH)	PRODUCTS
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MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
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MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON

(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO
TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
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I N D E X O F E X H I B I T S

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1 ---Upon commencing at 9:37 a.m.

2 THE CHAIRMAN: Good morning, ladies and
3 gentlemen. Please be seated.

4 Mr. Castrilli?

5 MR. CASTRILLI: Thank you, Mr. Chairman.

6 I have one preliminary matter and I
7 understand Mr. Freidin has one or two.

8 I was able to speak with Mr. Edwards last
9 evening and he advises me that he still anticipates
10 being able to attend the hearing Thursday morning for
11 the purposes of his cross-examination which he
12 estimates will be approximately two hours.

13 He indicated, though, that it is still
14 subject to the personal illness problem that currently
15 exists in his family, but he indicated his intentions
16 were still to be here on Thursday, if at all possible.

17 THE CHAIRMAN: Very well.

18 MR. CASTRILLI: If I am not finished, I
19 will certainly sit down to permit him to conduct his
20 cross-examination.

21 MR. CAMPBELL: On that topic, Mr.
22 Chairman, we are running up against the deadline of the
23 filing for interrogatories in Panel 7 and we are
24 finding that, because of the volume of material
25 provided, I have brought people up to meet with me

1 tonight and tomorrow night to try and get those
2 interrogatories settled.

3 And it would be helpful, under the
4 circumstances, if Mr. Castrilli outlined if I could
5 count on not going on this week, then I can do Panel 7
6 interrogatories. If there is still exists a
7 reasonable -- if the Board would intend, even under
8 these circumstances, to ask me to go on this week, then
9 I am going to have to make some room in the schedule
10 for some other matters.

11 And so I guess really what I am asking
12 for is, if it is possible, that the Board would be
13 prepared to say now that I will not start this week.

14 THE CHAIRMAN: Well, Mr. Castrilli, you
15 will be afforded just about a complete day today in
16 cross-examination, subject to the normal breaks and, as
17 well, tomorrow.

18 When do you anticipate -- I know it is
19 hard to predict, but where do you anticipate to be by
20 the end of tomorrow?

21 MR. CASTRILLI: Mr. Chairman, I am pretty
22 much on schedule. I think I originally indicated I
23 would be approximately three days. I think we are
24 about a third through my cross-examination.

25 THE CHAIRMAN: So today and tomorrow

1 might finish you off, in terms of your
2 cross-examination by tomorrow evening.

3 MR. CASTRILLI: Quite conceivably, yes.

4 THE CHAIRMAN: And then we have Mr.
5 Edwards on Thursday but, there is a possibility, Mr.
6 Campbell, that Mr. Edwards may not arrive Thursday.
7 There is a serious illness factor in his family.

8 MR. CAMPBELL: Yes, I understand that,
9 Mr. Chairman.

10 THE CHAIRMAN: And we are going to be
11 very accommodating in terms of when he can attend.

12 Beyond that, I do not believe there is
13 anybody else that is going to be cross-examining,
14 beyond yourself, and it would be a shame to lose a
15 complete day. And, in fact, that could accommodate, I
16 suspect, most of your cross-examination.

17 If you were to cross-examine Thursday,
18 you would probably be finished Thursday or you might be
19 finished Thursday.

20 MR. CAMPBELL: That is not inconceivable
21 although there is one aspect that came up yesterday
22 where I am going -- which rather changed my view of
23 some of the evidence that I have to do some work on.

24 So whether I am going to be able to get
25 appropriate advice before Thursday, in any event,

1 but...

2 THE CHAIRMAN: Well, another matter that
3 the Board has been considering and that is: We are
4 considering extending the deadline for the submission
5 of interrogatories on Panel 7 for a further week. And
6 the reason for that is, is that I do not think anybody
7 anticipated the volume of that Panel's evidence and it
8 is a lot of material to go through and I think the
9 parties should be afforded a proper opportunity to
10 review that material and put forth whatever
11 interrogatories they deem necessary.

12 So the Board, I think - unless there is
13 some major objections on your part, Mr. Freidin - is
14 considering extending the time for submitting
15 interrogatories with respect to that panel for one
16 week.

17 MR. CAMPBELL: Mr. Chairman, that would
18 certainly overcome largely my difficulty. There may be
19 one area where I need some expert advice that is not
20 currently available to me, and it was a matter which
21 arose for the first time yesterday, but apart from
22 that, if I knew that right now, that might well help
23 solve this problem, believe me.

24 THE CHAIRMAN: Mr. Freidin, do you have
25 any objections to that extension?

1 MR. FREIDIN: I have no objections as
2 such, but it is a fairly onerous task to deal with
3 these interrogatories in the time frame. So we are
4 going to be pushed to the extreme at the other end.

5 So I may be back saying you are going to
6 have to give us some time, you know, we cannot serve
7 them ten days before the panel takes the stand.

8 THE CHAIRMAN: When are they due right
9 now? I have not figured out the dates, quite frankly.

10 MR. FREIDIN: I can --

11 MR. CASTRILLI: August 22nd.

12 THE CHAIRMAN: Sorry?

13 MR. CASTRILLI: August 22nd.

14 THE CHAIRMAN: August --

15 MR. CASTRILLI: 22nd.

16 THE CHAIRMAN: 22nd.

17 MR. FREIDIN: There are a hundred
18 interrogatories on Panel No. 6, for example.

19 THE CHAIRMAN: I assume there will be a
20 number under 7 as well.

21 MR. FREIDIN: And let me just advise the
22 Board at this stage that the material for Panel No. 7
23 as a bundle is larger than the other panels. However,
24 if you look at the witness statement, which I want to
25 make some remarks about, and the reports which are

1 being relied upon by the witnesses, it is no longer
2 than the other witness statements.

3 What was produced in Panel No. 7 were the
4 articles which were referred to by the people in their
5 report, because that is exactly the sort of thing that
6 we are getting interrogatories on. So if you came back
7 and you put it in a pile. That is why it is so large.

8 We said: We get asked for this material
9 all the time, let's give it to everybody up front. So
10 that is the information why...

11 THE CHAIRMAN: Well, in fairness, though
12 the parties may wish to look at some of that material
13 and ask interrogatories on them. I mean, just because
14 it is supplementary material does not mean it is not
15 the subject matter of interrogatories.

16 MR. FREIDIN: I am not suggesting that is
17 the case. I just wanted to put on the record why it
18 was as large as it is.

19 But I have no problem with the people
20 being given an extension, as long as it is understood
21 that that may cause a problem getting the answers out
22 within the required time frame.

23 I cannot undertake to get the answers out
24 within the time frame if you extend it for ten days.
25 We will do our best.

1 MR. CAMPBELL: Mr. Chairman, that would
2 be a problem. If we anticipate Panel 7 not coming back
3 until after October, I wouldn't anticipate -- because
4 there is quite a bit of extra time there already.

5 THE CHAIRMAN: Have you plotted out, Mr.
6 Freidin, where we will be by the end of September or
7 where we should be?

8 MR. FREIDIN: I thought at one time that
9 we would be doing well with Panel 6. At the rate
10 things are going, I think we may be into 7.

11 THE CHAIRMAN: Well into 6.

12 MR. FREIDIN: We will finish 6 in
13 September and have time for me to do some on 7 and then
14 we get into the question as to whether we want to split
15 a panel.

16 THE CHAIRMAN: Well, I think for the
17 moment, I think the Board will extend the time for
18 submitting interrogatories from August 22nd to August
19 29th, a one-week extension.

20 We will deal with your problems, Mr.
21 Freidin, in terms of the responses, if necessary,
22 subsequent thereto.

23 Secondly, you will be working along, I
24 suspect, on the Executive Summary with respect to Panel
25 7.

1 MR. FREIDIN: I was going to comment on
2 that. The panel statement is only 10 pages long. In
3 fact, it is a summary of the reports which are attached
4 thereto and, therefore, that in fact is the Executive
5 Summary. The witness statement and Executive Summary
6 are one in the same thing in Panel No. 7.

7 MR. CAMPBELL: Mr. Chairman, in lightm --
8 I didn't understand that Mr. Freidin was taking this
9 approach in producing the evidence, because what
10 happens when a party gets the volume of material that
11 we get is that we assume, I think quite properly, that
12 that is Mr. Freidin's case.

13 Now, if there is additional material that
14 he is including, in effect, as reference documentation
15 to his case in anticipation of questions, it would be
16 really helpful if, when he did that, he could say:
17 This is what I am relying on in my case and this is
18 other relevant material that relates to this subject
19 matter, but it isn't at the core of what I am relying
20 on in my case.

21 Because the parties are now left - if we
22 had known that with Panel 7 we might well have been in
23 quite a different position and what we have to deal
24 with is: What is Mr. Freidin's case.

25 THE CHAIRMAN: Yes. And that, because of

1 the nature of this type of undertaking, has been, I
2 think, somewhat of a concern since day one. Mr.
3 Freidin, I think Mr. Campbell's concerns are valid to
4 the extent that you should be able to say, in an
5 Executive Summary or in the statement itself, the
6 witness statement, the material on which you rely for
7 your case.

8 And I am quite sure there will be
9 additional material by way of reference that you may
10 want to list as well, in fact, it may be a requirement
11 for you to list under the regulations. And I think
12 that this should be done, because it will materially
13 assist the parties when they are preparing their
14 responses to your case. They must have as good an idea
15 as possible at this stage as to what you are relying
16 upon for your case, rather than just throwing all the
17 material to them and they do not find out particularly
18 what you are relying upon until the panel is questioned
19 in direct evidence.

20 MR. FREIDIN: I can respond by saying
21 that those comments and any confusion that may be
22 caused because of the matter in which 7 was served will
23 be taken into account and, in fact, if we do it again
24 we will indicate what documents are, in fact, provided
25 as reference documents, documents referred to by the

1 report authors.

2 THE CHAIRMAN: Well, I think you should
3 take these comments of the Board into account with
4 respect to both 7 and any future witness statements,
5 and I think all the parties should be under that same
6 scenario; in that they should be, when submitting
7 witness statements, clearly outlining the material upon
8 which they rely and the material which is secondary or
9 supplementary to what they rely upon.

10 And, again, this is the type of hearing,
11 in the Board's view, that from time to time we will
12 simply have to readjust as we go along to concerns that
13 arise, based on the way that the case has been
14 presented, or is anticipated to be presented in future.

15 Is there anything further, Mr. Freidin?

16 MR. FREIDIN: Yes. Exhibit No. 140 was
17 the interrogatory from the Ministry of the Environment,
18 I think it was Undertaking No. 4, and I had undertaken
19 to provide a breakdown to Mr. Campbell of the 1981-1987
20 capital expenditures.

21 I provided actually a copy to Mr.
22 Campbell already, but I think perhaps we should file
23 the actual breakdown and make it part of Exhibit 140.
24 (handed)

25 MRS. KOVEN: Thank you.

1 THE CHAIRMAN: Well, can we put this in
2 as Exhibit 140(A)?

3 MR. FREIDIN: Sure.

4 THE CHAIRMAN: Just to differentiate with
5 what was originally filed.

6 ---EXHIBIT NO. 140(A): Breakdown of capital
7 expenditures from 1981-1987,
(answer to Undertaking No. 4).

8 THE CHAIRMAN: Mr. Castrilli?

9 MR. CASTRILLI: Thank you, Mr. Chairman.

10 JOHN EDWARD OSBORN,
11 KENNETH A. ARMSON,
12 JOHN RANDOLPH CARY,
DAVID GORDON, Resumed

13 CONTINUED CROSS-EXAMINATION BY MR. CASTRILLI:

14 Q. Mr. Cary, continuing with Exhibit 157
15 the Proposed Policy on Controlling Clearcuts and, at
16 the same time, Exhibit 156, our Interrogatory Question
17 7.

18 THE CHAIRMAN: Mr. Castrilli, excuse me
19 for interrupting. I just wanted to make it clear, Mr.
20 Campbell, that based on that extension, we may reach
21 you Thursday.

22 MR. CAMPBELL: Oh yes, yes. That is
23 fine.

24 THE CHAIRMAN: And you will be prepared
25 to go on at that time?

1 MR. CAMPBELL: Yes.

2 THE CHAIRMAN: Very well, thank you.

3 Sorry.

4 MR. CASTRILLI: Q. Do you have those two
5 documents now, Mr. Cary?

6 MR. CARY: A. That is your Interrogatory
7 No. 7?

8 Q. Yes, that is referring to pages 24
9 and 25 of Document 9 and exhibit 157.

10 A. Yes.

11 Q. And have you got a copy? Have you
12 got control over the paperflow?

13 A. I think so.

14 Q. And in Document 157 -- or Exhibit 157
15 we have, at page 2, the actual constraints which appear
16 under Table 1 which were proposed by the authors who
17 were MNR civil servants at the time?

18 A. Yes.

19 Q. And those constraints are set out in
20 Table 1. And then at page 5 and 6 of Exhibit 157,
21 beginning at the bottom of page 5 and going over to
22 page 6, we have the summary itself of the policy as
23 proposed by the authors.

24 Is that correct?

25 A. Yes.

1 Q. So that the full range of proposals
2 by the authors are contained in a combination of Table
3 1 and pages 5 and 6 of what are, or what is Exhibit
4 157; is that correct?

5 A. Yes.

6 Q. Thank you. Now, if I could refer you
7 to Exhibit 156, your answer to our Question (e). I
8 will just read the question and then the answer.

9 On the first page of Exhibit 156 we asked
10 under heading (e):

11 "Which recommendations of the 1976 Policy
12 were incorporated into forest practices,
13 how was this done, and how was this
14 reflected in Ministry-approved
15 instruments such as licences or timber
16 management plans?"

17 And we asked for copies of relevant
18 approval instruments reflecting incorporation of any
19 such recommendations.

20 Your answer appears at what would be page
21 2 of Exhibit 157 and that answer is as follows:

22 "The proposed policy does not contain
23 recommendations per se, but does contain
24 a list of proposals. None of these
25 proposals was formally implemented as the

1 policy was never approved. Some elements
2 and principles of these proposals are now
3 part of normal timber management
4 practices."

5 Do you have that before you now, Mr.

6 Cary?

7 A. I do.

8 Q. I am just curious. In your answer to
9 our interrogatory you indicated that the proposed
10 policy contained no recommendations only proposals.

11 Looking at Table 1, would you agree with
12 me that there was a fairly -- Table 1 appears at page 2
13 of Exhibit 157.

14 A. Yes.

15 Q. Would you agree with me that Table 1
16 contains a fairly detailed set of action items and
17 prescriptions, if nothing else?

18 A. Yes. The left-hand portion
19 identifies sites and then the right-hand portion of the
20 table identifies constraints that are proposed to be
21 exercised, implemented on those sites.

22 Q. Would you advise the Board when it
23 was decided by the Ministry of National Resources not
24 to implement Exhibit 157?

25 A. I cannot tell you the date, no.

1 Q. Is that something that is on
2 obtainable by you or through someone else?

3 A. I will make inquiries.

4 Q. Thank you, that would be sufficient.
5 Now, continuing with the answer that was contained in
6 Exhibit 156 that I just read into record, you note in
7 the last sentence:

8 "Some elements and principles of these
9 proposals are now part of normal timber
10 management practices."

11 Can you advise the Board what elements
12 and principles are you referring to that became part of
13 normal timber management practices?

14 A. The new timber management planning
15 system, the silvicultural guidelines, the guidelines
16 for the protection of fish habitat, the guidelines for
17 the protection of moose habitat, the tourism guidelines
18 are now part and parcel of our regular operations.

19 And, within those prescriptions, within
20 those guidelines are directions for considering the
21 effects of harvest operations, and we now operate with
22 those prescriptions which in fact, in my view, answer
23 the concerns that the authors of the document wrote,
24 wrote about in 1976.

25 Q. Can you advise the Board who decides

1 when these guidelines or the contents relating to these
2 particular matters are to be applied in a Timber
3 Management Plan or on a timber management unit?

4 A. That will be talked to in later
5 panels dealing with harvest, dealing with renewal and
6 dealing with management planning.

7 Q. Is the simple answer that the
8 Ministry of National Resources at the unit forester
9 level decides?

10 A. No. The unit forester must consider
11 the guidelines for his -- that are in force in his
12 region, in his district, and across the area of the
13 undertaking. They are generic guidelines. The
14 application of those guidelines, on the ground, is made
15 in concert with the timber management planning process,
16 and then the Timber Management Plan, as you know, is
17 approved.

18 Q. Who ultimately exercises the
19 discretion with respect to the application of
20 particular parts of the guidelines in a particular
21 context, isn't it the unit forester?

22 A. There is one --

23 Q. Once he has considered the
24 guidelines, et cetera?

25 A. There is a planning team and, again,

1 the details of that and how those decisions are arrived
2 at will be discussed by later panels.

3 Q. Which panel are you referring to?

4 A. Panel 15, but also --

5 Q. Is that blanket --

6 A. But also, as part of the
7 decision-making process, I believe subject to my being
8 corrected, it will be Panel No. 8 where they discuss
9 that sort of decision-making process.

10 MR. CASTRILLI: Unless I'm mistaken, the
11 guidelines themselves have not yet been filed as part
12 of any of the witness statements.

13 In which panel does the Ministry intend
14 to file the guidelines?

15 MR. FREIDIN: Panel 8.

16 MR. CASTRILLI: That's Panel 8, all of
17 those guidelines?

18 MR. FREIDIN: Yes.

19 MR. CASTRILLI: Q. Mr. Cary, would you
20 put Exhibit 21 before you. It is the first extension
21 that the Ministry of Natural Resources received under
22 the Environmental Assessment Act.

23 MR. CARY: A. I don't have that.

24 Q. You were given notice of it, counsel?

25 MR. FREIDIN: I have only got one copy of

1 the exhibit, Mr. Chairman. Will you take a look to see
2 if you have got some extra copies. I would like the
3 Board to have this copy.

4 THE CHAIRMAN: We have one. Mr. Tuer is
5 going to give one copy to the panel.

6 MR. TUER: (Handed)

7 THE CHAIRMAN: Thank you.

8 MR. CASTRILLI: Q. The relevant portion
9 I am going to refer you to, Mr. Cary, is the item --
10 paragraph just before Item 1 at the bottom of the page
11 and Item 1 itself. If you want to take a moment to
12 read it.

13 Have you completed reviewing the document
14 or that part of it?

15 MR. CARY: A. I have read it.

16 Q. As you can see from the text of the
17 first page of what is Exhibit 21, it is the first
18 exemption the Ministry of Natural Resources received
19 under the Environmental Assessment Act and under Item 1
20 it listed as a reason for a temporary exemption from
21 the application of the Act a number of reasons, and one
22 of them cited under Item 1 is that:

23 "The Ministry of Natural Resources
24 requires a further period of time prior
25 to application of environmental

1 assessment procedures to the undertaking
2 in order to complete revisions to its
3 overall forest policy direction."

4 And it goes on to note that the revisions
5 include and the first hash-marked item under Item 1 is:

6 "A review of all aspects of forest
7 regeneration and development of
8 definitive policy guidelines on the size
9 of clear cuts."

10 Firstly, I was wondering, was there a
11 deliberate connection between forest regeneration and
12 size of clear cut that the Ministry wanted to convey to
13 the -- that the Ministry of Natural Resources wanted to
14 convey to the Ministry of Environment, that the two go
15 hand in glove?

16 MR. CARY: A. I would like just like to
17 point out to the Board that this is dated the 27th day
18 of June, 1977. I had no input or knowledge of this.
19 The words say:

20 "Review of all aspects of forest
21 regeneration and development of
22 definitive policy guidelines on the size
23 of clear cuts."

24 I am not sure whether there is that link
25 made.

1 Q. Is anyone else on the panel in a
2 position to answer that question? Mr. Armson, it
3 pre-dates your involvement with the Ministry; is that
4 right?

5 MR. ARMSON: A. That's correct.

6 Q. Mr. Osborn, you are probably the only
7 other member that would have been a member of the
8 Ministry?

9 DR. OSBORN: A. I was not involved in
10 the EA process at that time, Mr. Castrilli.

11 Q. Is there anyone who would be able to
12 speak knowledgably to that?

13 MR. CARY: A. I am not sure who -- Mr.
14 Castrilli, I cannot answer that.

15 Q. That is fine. Now, there is a
16 reference -- the way the sentence reads, or the latter
17 part of that sentence under the first hash-marked item.
18 It says:

19 "...and development of definitive
20 guidelines on the size of clear cuts."

21 Can you advise the Board whether at the
22 time this exemption was written, in June of 1977, that
23 the policy which is set out in what is Exhibit 157 was
24 the policy referred to, the Proposed Policy?

25 MR. FREIDIN: The Proposed Policy?

1 MR. CASTRILLI: Exhibit 157 is the
2 Proposed Policy.

3 MR. CARY: I cannot advise the Board that
4 that is the policy that's referred to in this exhibit.

5 MR. CASTRILLI: Q. Can you confirm for
6 me, Mr. Cary, that it was industry opposition to this
7 Proposed Policy and the previous policy which we have
8 not seen which resulted in neither of them being
9 implemented?

10 MR. FREIDIN: The proposed policies?

11 MR. CASTRILLI: The June 1976 one and the
12 one that pre-dates it which we have not seen.

13 MR. CARY: Industry opposition--

14 MR. CASTRILLI: Q. Yes.

15 MR. CARY: A. --as you have termed it
16 was one element, but not the only one.

17 Q. I would like to take you to page 124
18 of your evidence, Exhibit 135. At the bottom of page
19 124, the top of page 125. The last sentence on the
20 bottom of page 124 reads -- sorry, do you have the
21 page?

22 A. Yes, I have.

23 Q. "After discussions and review within
24 the Ministry and by forest industry
25 revised but weakened draft policy..."

1 That is the proposed policy which is now
2 Exhibit 157:

3 "...was published in June, 1976."

4 Can you confirm for me that that sentence
5 was referring to the fact that this discussion took
6 place predominantly between the industry and the
7 Ministry and not outside the Ministry or industry?

8 A. That sentence suggests exactly that.

9 Q. Thank you. Mr. Cary, I am showing
10 an article which you were given notice of. It is the
11 March, 1978 edition of the Professional Forester. Can
12 you confirm that you have been given notice of that?

13 A. Yes.

14 MR. CASTRILLI: Mr. Chairman, I ask that
15 this be made the next exhibit.

16 THE CHAIRMAN: Exhibit 159.

17 MR. CASTRILLI: Mr. Chairman, I should
18 note Exhibit 159 is just excerpts from that document
19 and not the entire document.

20 THE CHAIRMAN: And this is an excerpt
21 from the Professional Forester, Newsletter No. 75,
22 dated March, 1978.

23 --EXHIBIT NO. 159: Excerpt from Professional Forester,
24 Newsletter No. 75, dated March,
 1978.

25 MR. CASTRILLI: Q. Mr. Cary, on what is

1 now at the bottom of page 5 of Exhibit 159, you will
2 see a letter written by Mr. Flowers in response to an
3 earlier letter by another forester.

4 Let's go over some of the contents of Mr.
5 Flowers' letter and ask you to comment as we go.

6 MR. FREIDIN: Why don't you give him an
7 opportunity to read the entire article.

8 MR. CASTRILLI: He has never seen this
9 before?

10 Q. Take a moment, Mr. Cary. Have you
11 now had an opportunity to complete reading the article,
12 Mr. Cary?

13 MR. CARY: A. Yes, I have.

14 Q. I refer you then first to the second
15 paragraph on the letter itself, the sentence -- the
16 paragraph beginning:

17 "Modern logging exhibited..."

18 Do you see that paragraph?

19 A. Yes, I do.

20 Q. The paragraph reads:

21 "Modern logging exhibited itself
22 primarily in the extent to which rapidly
23 expanding large clearcuts developed.
24 This situation was a symptom of the lack
25 of an effective total forest management

1 program."

2 Do you agree with that statement?

3 A. It was Mr. Flowers' opinion at the
4 time. I don't know quite what he meant by modern
5 logging, presumably logging in the boreal forest.

6 Yes, there were clearcuts in the boreal
7 forest at that time.

8 Q. The answer to my question though is
9 not quite coming clear to me. The sentence reads:

10 "Modern logging exhibited itself
11 primarily in the extent to which rapidly
12 expanding large clearcuts developed."

13 Do you agree with that sentence?

14 A. In the context of the time, yes.

15 Q. Thank you. And the next sentence
16 which reads:

17 "This situation with a symptom of the
18 lack of an effective total forest
19 management program."

20 Do you agree with that sentence?

21 A. I really don't know what Mr. Flowers
22 means and I don't mean to be obtuse, what does he mean
23 by 'total forest management program'?

24 Q. So you cannot answer either yes or no
25 to that sentence?

1 A. I cannot agree directly with that
2 sentence.

3 Q. Thank you. I ask you to turn to page
4 6 of Exhibit 159. The top of the page, the last
5 sentence in the uncompleted paragraph on that page
6 begins:

7 "The original policy..."
8 Do you see that sentence?

9 A. Yes, do I.

10 Q. It reads:

11 "The original policy..."

12 And he is referring to his earlier
13 policy, not Exhibit 157:

14 "...was two years being developed before
15 it was finally printed. The final
16 policy..."

17 Which is exhibit 157:

18 "...will have been another year and a
19 half."

20 Mr. Cary, are you in a position to
21 confirm --

22 THE CHAIRMAN: It is that time of the
23 morning.

24 MR. CASTRILLI: That the bells are
25 ringing. I think it is going to be a long train.

1 THE CHAIRMAN: Longer than the hearing?

2 MR. CARY: When it is cutting into
3 hearing time.

4 MR. CASTRILLI: Can I be heard? Perhaps
5 I can proceed even though the train isn't finished.

6 THE CHAIRMAN: If anybody has difficulty
7 hearing, please let us know.

8 MR. CASTRILLI: Q. Mr. Cary, can you
9 confirm that the development of the proposed policies
10 within the Ministry of Natural Resources for
11 controlling the size of clearcuts was some three and a
12 half years as indicated in Exhibit 159?

13 MR. CARY: A. I presume that Mr. Flowers
14 meant, in that first -- in the sentence:

15 "The original policy was two years being
16 developed before it was finally
17 printed...",

18 I would suggest that the final printing
19 date is '76 then it was two years being developed and
20 that's the policy that I have been unable to find, that
21 '74 policy.

22 Then the sentence:

23 "The final policy will have been another
24 year and a half."

25 Is he forecasting into the future? The

1 policy was never approved. Does he mean from '76 to
2 mid-78, I presume so. So in that context, yes, three
3 and a half years.

4 Q. So it was not done overnight; is that
5 right?

6 A. No.

7 Q. Your answer was no?

8 A. My answer was no, it was not done
9 overnight.

10 Q. Thank you. I would like to now refer
11 you to Items 2 and 6 on page 6 of Exhibit 159. Flowers
12 notes there that:

13 "The policy does identify the main areas
14 of concern regarding regeneration and
15 proposes change."

16 In Item 6:

17 "Is assumed that the effects on the
18 growth of regeneration will be positive,
19 clearly stated."

20 And that's from the implementation of the
21 policy. Do you agree with Mr. Flowers' conclusions
22 with respect to the policy?

23 A. Well, these were in response to the
24 points raised by Mr. Aird which I don't have at my
25 disposal.

1 Q. Well, the sentences speak for
2 themselves. The first sentence, Item 2 says:

3 "The policy does identify the main areas
4 of concern regarding regeneration and
5 proposes change."

6 MR. FREIDIN: With respect, the witness
7 has indicated and the article indicates that that is
8 response to a number of points raised by Paul, Mr. Aird
9 and to really understand what Mr. Flowers might have
10 meant, I think you have got to look at the thing in
11 context.

12 THE CHAIRMAN: I think that is a
13 reasonable concern, Mr. Castrilli.

14 MR. CASTRILLI: Fine, Mr. Chairman, I can
15 do that.

16 Q. Mr. Cary, would you confirm for me
17 that -- confirm that the article referred it is on the
18 second page?

19 MR. CARY: A. That is the first time I
20 have seen it. May I just have a look, please.

21 Q. Yes, please do.

22 THE CHAIRMAN: Exhibit 160, and this is
23 the Professional Forester Newsletter No. 74, dated
24 November, 1977.

25 ---EXHIBIT NO. 160: Professional Forester Newsletter

1 No. 74, dated November, 1977.

2 MR. FREIDIN: Mr. Chairman, we have
3 problems arising here. We have a panel and I think it
4 is important that all the members of the panel should
5 have the opportunity to read this because, as you are
6 aware, the panel members can add information if you
7 think it is helpful.

8 Mr. Castrilli has indicated that provided
9 a copy for the panel, the next witness statement. I
10 would ask if he can do it before then, if that happens.

11 THE CHAIRMAN: Well, it is a relatively
12 short excerpt, so why don't the panel just take a
13 moment--

14 MR. FREIDIN: All right.

15 THE CHAIRMAN: --to read the excerpt.

16 MR. FREIDIN: Perhaps -- I don't have one
17 now.

18 MR. CAMPBELL: Mr. Freidin, you can borrow
19 mine.

20 MR. FREIDIN: Thank you.

21 MR. CAMPBELL: Do you want the response
22 as well?

23 THE CHAIRMAN: The Board does not like to
24 delay the proceedings like this, but I think it is
25 preferable that we cover this material in sequence

1 rather than having to come back to it at some later
2 date.

3 So you might as well just take the time
4 to read these excerpts at this time and complete the
5 questioning on them.

6 MR. CASTRILLI: That is fine.

7 Mr. Chairman, I might wish to note to Mr.
8 Freidin, I am entitled to put questions to any single
9 member of the panel. I am not obligated to entertain
10 from any panel member who wishes to provide them.

11 THE CHAIRMAN: That is right, with the
12 exception that the Board may wish to hear from the
13 other panel members, if they can elaborate on the
14 answers.

15 The basis for that part of the Board's
16 rule, Mr. Castrilli, is is that the Board wants the
17 best information in front of it, not necessarily
18 restricting the cross-examination to the adversarial
19 side of the proceeding.

20 MR. CASTRILLI: That's understood, Mr.
21 Chairman.

22 THE CHAIRMAN: Thank you.

23 MR. CASTRILLI: Q. Mr. Cary, you can
24 advise us when you are ready.

25 MR. CARY: A. I have briefly reviewed

1 the paper -- the letter from Mr. Aird.

2 Q. Thank you. Now, I asked you with
3 respect to Items 2 and 6 of Exhibit 159, the Flowers'
4 letter, whether you agreed that the policy of
5 controlling the size of clearcuts was designed, at
6 least in part, to have positive results with respect to
7 regeneration.

8 Now, having read Exhibit 159, Items 2 and
9 6, and the opportunity to look at Mr. Aird's
10 response -- excuse me, Mr. Aird's letter which prompted
11 Mr. Flowers' response, can you confirm for me that the
12 policy of controlling the size of clearcuts was
13 designed, at least in part, to have positive results
14 with respect to regeneration?

15 Is that not what Mr. Flowers is saying?

16 A. That was one of the objectives of Mr.
17 Flowers' policy, yes.

18 Q. Thank you. Move on to Item 10 in Mr.
19 Flowers letter which is Exhibit 159. Mr. Flowers notes
20 that:

21 "The policy will not require a more
22 extensive road system, it requires roads
23 to be built sooner and used longer. It
24 is expected that the more intensive
25 planning required will probably reduce

1 the actual miles of roads built. We
2 feel sure there are real economies in
3 this area."

4 Do you agree with that assessment, Mr.
5 Cary?

6 A. No, I cannot agree with that. It
7 would seem to me that there would be requirements for
8 added roads.

9 Q. I believe he agrees with you to that
10 extent. He is saying it will not require an extensive
11 road system. Is it your opinion that it would have
12 required an extensive road system?

13 A. That is my opinion.

14 Q. The next paragraph in Exhibit 159,
15 Mr. Flowers notes that:

16 "We have not moved in haste in the
17 preparation of a much needed restriction
18 to modern logging practices. In fact, we
19 have moved far too slow and some argue
20 too late."

21 Do you agree with that assessment, Mr.
22 Cary?

23 A. No, I don't.

24 Q. Moving down to the next paragraph,
25 Mr. Flowers notes:

1 "He and Mr. Robinson have a combined
2 fifty years of experience in the field."

3 The very last paragraph on the page --
4 excuse me, in the article, Mr. Flowers notes that:

5 "In 1978 he did not see a dilemma in the
6 size of clearcuts..."

7 Which was something that is the subject
8 matter of Mr. Aird's article. He indicates:

9 "...only an urgent need to reduce them."

10 Do you agree with that assessment? Did
11 you agree with Mr. Flowers in 1978?

12 A. No, I do not.

13 Q. You did not agree with him in 1978?

14 A. I did not believe there was an urgent
15 need to reduce clear cuts then. What we had to do is
16 to improve our knowledge base and to make the
17 appropriate changes, not in any hasty way, not in any
18 precipitive way.

19 That was the need then, and we have done
20 so since then.

21 Q. Mr. Cary, in 1976 you wrote the
22 article that appears now as an exhibit to these
23 proceedings. Is it your testimony that you had already
24 recanted your position as early as 1978, or is that
25 something that we had heard for the first time

1 yesterday?

2 A. The problems I faced in Dryden were
3 not the size of clear cuts, they were all sorts of
4 other problems, as I explained yesterday.

5 Q. Including uncontrolled clearcutting;
6 is that right?

7 A. That was one of the problems that I
8 identified in 1976. So there are so many -- there were
9 other factors, it was not the size of clear cuts.

10 Q. So is it your testimony that Mr.
11 Flowers and Mr. Robinson's proposed policy should have
12 been approved by the Technical Committees of the
13 Ministry of Natural Resources in 1976 when it was
14 released was not something that spoke to the problems
15 that you identified in your article of the same year?

16 Is that your testimony?

17 A. I spoke to many other factors and not
18 the size of clear cuts directly.

19 Q. I see.

20 MR. CASTRILLI: Mr. Chairman, this would
21 be an appropriate place to take a break.

22 Sorry, Mr. Chairman. I can continue. I
23 can continue, actually, if that's the Board wish.

24 THE CHAIRMAN: All right. Why don't we
25 wait to break at 11:00.

1 MR. CASTRILLI: That's fine.

2 Q. Still on the topic of clearcutting
3 arising from Mr. Dixon's comments in Document 9, would
4 you agree with me, Mr. Cary, that there is a need for
5 pre-determined cutting standards?

6 A. Where is that? What is the source of
7 that?

8 Q. My next exhibit.

9 A. Oh.

10 Q. I am showing you an excerpt from what
11 is already Exhibit 33 in these proceedings, a portion
12 of Chapter 5 of Commissioner Fahlgren's Report on the
13 Northern Environment.

14 MR. CASTRILLI: Mr. Chairman, I ask that
15 this be made the next exhibit.

16 THE CHAIRMAN: Exhibit 161.

17 ---EXHIBIT NO. 161: Excerpt from Chapter 5: Report
18 of Commissioner Fahlgren's on
19 the Northern Environment,
(Exhibit No.33).

20 THE CHAIRMAN: I see, Mr. Cotton, is
21 listed on this report. Will we be having him testify
22 at some point?

23 MR. CASTRILLI: If the hearing is long
24 enough probably everyone in the Toronto phone directory
25 will get an opportunity.

1 MR. FREIDIN: Are you going to file that
2 as an exhibit?

3 THE CHAIRMAN: We already have one phone
4 book in we might as get the other one.

5 MR. CASTRILLI: Mr. Chairman, this is
6 Exhibit 16...?

7 THE CHAIRMAN: One.

8 MR. CASTRILLI: One.

9 MR. GORDON: Mr. Castrilli, would you
10 have an extra copy, please?

11 MR. CASTRILLI: Sorry, I don't. It is
12 already an exhibit, you might be able to -- or the
13 entire document is already an exhibit. This is an
14 excerpt from what is Exhibit 33.

15 MR. FREIDIN: Mr. Chairman, I would ask
16 that the other members of the panel be given a copy
17 during the break. Again, Mr. Castrilli has the right
18 to direct the questions to whoever he pleases, but as
19 you indicated, where the other witnesses may of
20 assistance the Board will entertain further comment.

21 I want the rest of the panel members to
22 have an opportunity to read these documents and if they
23 feel they can add some information, they can do so, if
24 the Board allows.

25 MR. CASTRILLI: Mr. Chairman, with all

1 due respect to my friend. I have made the document
2 available, it is not terribly long, it is all of four
3 pages. I have a better suggestion for Mr. Freidin, why
4 doesn't he make his panels smaller?

5 THE CHAIRMAN: Well, I am not sure that
6 is necessarily helpful, Mr. Castrilli.

7 MR. CASTRILLI: I don't have any extra
8 copies, I don't have the facilities to make them
9 available.

10 THE CHAIRMAN: Well, I think it is unfair
11 that the witnesses should have to contemplate questions
12 on a document that they have not had an opportunity to
13 see or review or know in advance that this was going to
14 be read.

15 MR. CASTRILLI: Mr. Chairman, I have
16 given Mr. Freidin notice that Exhibit 33 was going to
17 be dealt with, just as I advised Board.

18 THE CHAIRMAN: Well, Exhibit 33, with
19 respect, Mr. Castrilli is a lengthy report.

20 MR. CASTRILLI: Most of it it has nothing
21 do to with forestry. Certainly I am not going to put
22 questions to this panel respecting mining.

23 THE CHAIRMAN: Well, Did you indicate to
24 Mr. Freidin that you would be dealing with pages 5
25 through -- Chapter 5, 20 through 27?

1 MR. CASTRILLI: No, I didn't give him
2 page numbers. With respect, Mr. Chairman, when an
3 document is already an exhibit it is adequate, in my
4 experience before this Board, to advise counsel of what
5 the exhibits are going to be.

6 It hasn't been in my experience you have
7 to start identifying the various pages within documents
8 that are already exhibits.

9 THE CHAIRMAN: Well, that may not be so
10 precisely, Mr. Castrilli, but I still think in the
11 interest of fairness, the witnesses should have an
12 opportunity to at least peruse the precise pages that
13 you are going to be alluding to in your questions.

14 So perhaps this would be the appropriate
15 time to take a break so that they would have an
16 opportunity to read these seven pages.

17 MR. FREIDIN: I have three different
18 documents, two of them being notes of conversations
19 that Ms. Blastorah had about documents, another
20 handwritten document from Mr. Castrilli indicating some
21 documents.

22 I don't see the Fahlgren Report referred
23 to it. If there is another list, that we don't have,
24 perhaps.

25 MR. CASTRILLI: I gave you a list in the

1 form of a post just as I did the Board before the
2 proceedings began yesterday. Did you lose it, Mr.
3 Freidin?

4 THE CHAIRMAN: Well, gentlemen, why don't
5 we take the morning break, sort it out during the
6 break.

7 Panel, familiarize yourself with this
8 particular Exhibit No. 161 so Mr. Castrilli's questions
9 can be put after the break.

10 The Board will adjourn for 20 minutes.

11 Thank you.

12 ---Recess taken at 10:35 a.m.

13 ---Upon resuming at 11:15 a.m.

14 THE CHAIRMAN: The Board apologizes,
15 ladies and gentlemen, for the delay. We got involved
16 in a discussion that took a little extra time.

17 MR. CASTRILLI: Q. Mr. Cary, I asked
18 before the break whether you would agree that there was
19 a need for pre-determined cutting standards and you
20 will see that under the first paragraph under the
21 heading: Cutting Methods on page 5-20 of what is now
22 Exhibit 161, excerpts from the Fahlgren Commission
23 Report on the Northern Environment, that Commissioner
24 Fahlgren indicates:

25 "There is a need for pre-determined

1 cutting standards."

2 This is a finding he made during the
3 course of his enquiry. And he notes in the remainder
4 of that paragraph:

5 "This emerged from the Commission's
6 review of the environmental affects of
7 methods of cutting trees used by the
8 forest products industry."

9 Now, do you agree that there is a need
10 for pre-determined cutting standards, Mr. Cary?

11 MR. CARY: A. I agree there is a need.
12 I also wish to make the statement that in June, '85
13 when this report was submitted, there were lots of
14 cutting standards.

15 We have cutting standards in our
16 silvicultural ground rules, we have cutting standards
17 in our prescriptions, we have our silvicultural
18 guidelines for the working groups. There are many
19 cutting standards.

20 If that is what Mr. Fahlgren is referring
21 to - that is what I perceive he is referring to - and
22 there are many in existence today and there were in
23 existence in 1985.

24 Q. And I can presume that the Ministry
25 made Commissioner Fahlgren aware of these various

1 standards you are referring to?

2 Are you saying standards, by the way, or
3 guidelines?

4 A. Standards, guidelines.

5 Q. So the Ministry made --

6 A. In that context.

7 Q. So the Ministry made the Commissioner
8 aware of all these documents in the course of his
9 investigation; is that right?

10 A. I had no -- nothing to do with
11 Commissioner Fahlgren's agenda or who he met or when he
12 met them. I do not know.

13 Q. Can anyone answer on the panel what
14 was filed with Commissioner Fahlgren with respect to
15 this issue--

16 MR. ARMSON: A. I do not know.

17 Q. --by the Ministry?

18 MR. FREIDIN: I don't know how that is
19 going to help us, Mr. Chairman. Here we are again
20 finding out what Mr. Fahlgren said about things, not
21 knowing who said what.

22 MR. CASTRILLI: Well, wait a minute now.
23 I am not asking him what Commissioner Fahlgren asked.
24 I am asking a panel of four senior MNR witnesses on
25 this panel what they filed with Commissioner Fahlgren

1 with respect to an issue Mr. Cary has just raised.

2 That certainly is relevant.

3 THE CHAIRMAN: These witnesses. If they
4 know, can answer.

5 MR. CARY: I stand by my first answer,
6 Mr. Chairman, I do not know.

7 MR. ARMSON: I do not know.

8 THE CHAIRMAN: Mr. Gordon?

9 MR. GORDON: I was not involved.

10 DR. OSBORN: Neither was I, sir.

11 MR. CASTRILLI: Can Mr. Freidin advise me
12 whether the panel that is intending to deal with all of
13 these multitudinous guidelines and standards is going
14 to have somebody on it who will know.

15 MR. FREIDIN: I certainly didn't use that
16 as a criteria for choosing who the witnesses would be
17 and I cannot answer the question.

18 We will have people here in Panel 9 to
19 deal with soils; we will have people here in Panel 10
20 to talk about harvesting and the potential effects of
21 harvesting on the environment, including clear cuts; we
22 will have people speaking about regeneration practices.

23 THE CHAIRMAN: Are you planning, Mr.
24 Castrilli, to call Mr. Fahlgren at all?

25 MR. CASTRILLI: Am I planning to call Mr.

1 Fahlgren?

2 THE CHAIRMAN: Yes.

3 MR. CASTRILLI: I haven't made a
4 decision.

5 THE CHAIRMAN: Is anybody planning to
6 call Mr. Fahlgren?

7 MR. FREIDIN: Mr. Chairman, if I might.
8 I think it would be inappropriate for Mr. Fahlgren to
9 be called as a witness.

10 My understanding - I had to look into
11 this matter when I was counsel to a Commission that
12 looked into fire safety in high-rise buildings and, it
13 was during that time that Chief Justice Laskin
14 indicated that, in his view, it was improper for judges
15 who sat on tribunals to become engaged in public
16 comment on their reports.

17 I think the same caveat would apply to
18 Mr. Fahlgren, even if someone did attempt to call him.

19 THE CHAIRMAN: Well, does that mean to
20 say that any author of a report -- you are
21 differentiating because Mr. Fahlgren was a
22 Commissioner. Is that what you are saying?

23 MR. FREIDIN: That's correct.

24 THE CHAIRMAN: As opposed to an author of
25 a report such as Dean Baskerville--

1 MR. FREIDIN: That's correct.

2 THE CHAIRMAN: --or somebody else.

3 MR. FREIDIN: But I am not intending to
4 call him. I just thought I should bring that to the
5 Board's attention.

6 THE CHAIRMAN: Well, I am not sure that
7 is the state of the law, but it may be, and maybe we
8 will have to have argument on that at some future time.
9 I do not think the Board can rule on that at this time
10 for sure.

11 But, in any event, you do not know
12 whether you will be calling him, Mr. Castrilli?

13 MR. CASTRILLI: I have no instructions to
14 do so.

15 Q. I was asking, Mr. Cary. The
16 statement made by Commissioner Fahlgren that I have
17 read into the record respecting his view that there is
18 a need for pre-determined cutting standards, could that
19 have been met by the proposed 1976 proposed policy on
20 controlling the size of clear cuts?

21 MR. CARY: A. In a partial sense,
22 perhaps. I think Mr. Fahlgren is talking about a much
23 wider range of issues with regard to cutting methods
24 than just the size of clear cuts.

25 Q. Page 5-21 of Exhibit 161, the second

1 full paragraph, Commissioner Fahlgren notes:

2 "Clearcut is by far the predominant
3 cutting method and is preferred by the
4 forest product industry for cutting north
5 of 50 where it is virtually the exclusive
6 method used. In 1983-84, 200,000
7 hectares of forest were clearcut in
8 Ontario, more than 20 times the area cut
9 by the shelterwood and select methods
10 combined."

11 Down at the bottom of the page -- I will
12 just read these two paragraphs together. The last full
13 paragraph on the page:

14 "According to the Ministry of Natural
15 Resources continuous cuts are usually not
16 more than 150 hectares in area, although
17 much larger clearcuts have been observed,
18 some up to 20,000 hectares."

19 And I recall, Mr. Cary, yesterday that
20 the conversion for 20,000 hectares would be
21 approximately 50,000 acres. Does that number ring a
22 bell?

23 MR. CARY: A. Yes, it does.

24 Q. "I was told that large clearcuts
25 tended to cause environmental and

1 regenerative problems. The Ministry's
2 policy is to reduce the size of permitted
3 cuts. Indeed, reductions in clearcutting
4 have become standard in the north central
5 region of the province where companies
6 have been asked to conform to this
7 policy. However, the Ministry does not
8 appear to collect or release statistical
9 information on clearcut size, so the move
10 to smaller cuts cannot be varified."

11 First of all, would you agree with
12 Commissioner Fahlgren in the last paragraph that large
13 cuts tend to cause environmental and regenerative
14 problems?

15 A. I don't think that I would agree with
16 that statement, that large clear cuts tend to cause
17 environmental or regenerative problems.

18 Q. So you don't agree with Flowers and
19 Robinson in their 1976 report, you no longer agree with
20 your report nor article of 1976, and you know longer --

21 A. Which I did not talk about the size
22 of clear cuts in.

23 Q. You just talked about uncontrolled
24 clear cutting; is that right?

25 A. That's correct.

1 Q. And you don't agree with Commissioner
2 Fahlgren in a report he released in June of 1985; is
3 that correct, with respect to this issue?

4 A. As that statement stands, I cannot
5 agree with it.

6 Q. That is fine.

7 THE CHAIRMAN: Mr. Armson, do you agree
8 with that statement?

9 MR. ARMSON: No, I do not agree with it.

10 THE CHAIRMAN: Would you tell us why?

11 MR. ARMSON: I would be pleased to, Mr.
12 Chairman.

13 The whole matter, if I may, of clear cut
14 size, I think has developed first of all as a result of
15 quite legitimate concerns about regeneration and
16 environmental impacts over a period of time.

17 It is quite true that in the mid-70s
18 concern - and I will attest to this from my own
19 experience - there were areas of large clear cut, some
20 of which were contiguous. I have never seen anything
21 approaching 50,000 acres in size, I have no idea where
22 that dimension came from, but certainly several
23 thousands of acres in certain instances, not only on
24 company licenses but, I would also add, on some Crown
25 management units. And what happened then was that the

1 many observations - and I am speaking now particularly
2 of the early to mid-70s - related the size of the clear
3 cut to these concerns.

4 And I think, given the period, and
5 professional foresters, were many who did that, it is
6 not -- it was not an unexpected thing.

7 I think that Mr. Flowers in his letter
8 and, if I might, Mr. Chairman, there is a very telling
9 statement and this is in exhibit -- what is the number
10 here.

11 MR. CASTRILLI: Q. 159.

12 MR. ARMSON: A. 159. And this is on
13 page 5 of that Newsletter. Mr. Flowers had two
14 sentences in there, one about modern logging and one
15 about - and I will quote this sentence:

16 "The situation was but a symptom of the
17 lack of a total forest management
18 system."

19 And in my view, and in the course of my
20 study in 75-76, and in the report that I prepared in
21 1976, one of my recommendations dealt with this very
22 matter of bringing together planning and the
23 integration of harvesting and regeneration; in other
24 words, practicing silviculture in the context of forest
25 or, as perhaps we might say now, timber management.

1 I would like to draw to the Board's
2 attention that Mr. Flowers in the next sentence in that
3 same report as I can only take as a rationale for the
4 proposed policy says, and I quote:

5 "It was decided to aim at this single
6 fact..."

7 That is the problem relating to a total
8 forest management program:

9 "It was decided to aim at this single
10 fact as a target and a means by which to
11 startle the profession into bringing
12 about a semblance of a management program
13 designed to meet the objectives of all
14 forest users and to recognize other
15 values other than just harvesting."

16 I would submit, Mr. Chairman, that the
17 proposed policy, it may startle but it does nothing to
18 move towards, in fact, a total forest management
19 program and I believe that subsequent time, following
20 '76, has borne that out.

21 THE CHAIRMAN: Was the integrated
22 resource management policy the culmination of what this
23 might have been, the catalyst for a report like this?

24 MR. ARMSON: I don't believe the proposed
25 clearcutting policy was in effect a catalyst. I

1 perhaps shouldn't say this, but I believe that other
2 documents of the time were perhaps of greater benefit
3 as a catalyst in bringing about an integration of
4 harvesting and of regeneration and certainly of moving
5 towards the integration of resources management, yes.

6 MR. CASTRILLI: Q. Mr. Armson, just so I
7 understand your answer. I took you to say that the
8 sentence that begins:

9 "It was decided to aim at this single
10 fact..."

11 And you then referred to the lack of an
12 effective total forest management system, is what Mr.
13 Flowers meant by what he was targeting?

14 A. That is the sentence immediately
15 above that is what he is referring to.

16 Q. So then if I read the sentence the
17 way you have just characterized it, it would read as
18 follows -- just tell me if I'm right or wrong:

19 "It was decided to aim at the lack of
20 an effective total forest management
21 system as a means by which to startle the
22 Profession into bringing about a
23 semblance of a forest management
24 program."

25 How is that going to do anything?

1 MR. ARMSON: A. Well, that is why I have
2 some problem with the proposed clearcutting policy.

3 Q. That is why I have some problems with
4 your answer. Isn't it obvious that Mr. Flowers was
5 talking about -- it was decided to aim at the expanding
6 large clear cuts as a means of startling the profession
7 into creating a forest management program.

8 Isn't that the way to read that sentence?

9 A. I don't read it that way. He said --
10 I don't want to -- it seems to me the words are clear.
11 The single target was, in fact, the lack of a forest
12 management program.

13 Q. So why then didn't Mr. Flowers -- I
14 won't ask that question. Your answer stands for what
15 it is.

16 Let's go back to the bottom of page 5-21
17 of the paragraph I previously read into the record from
18 Exhibit 161, Commissioner Fahlgren's Report.

19 The middle of that paragraph,
20 Commissioner Fahlgren notes:

21 "The Ministry's policy is to reduce the
22 size of permitted cuts."

23 Can you advise the Board whether the
24 Ministry of Natural Resources told Commissioner
25 Fahlgren that the Ministry had a policy on reducing the

1 size of clear cuts?

2 MR. CARY: A. Are you addressing that
3 question to me, Mr. Castrilli?

4 Q. Mr. Cary.

5 A. As I have said before, I don't know
6 who from the Ministry provided information to Mr.
7 Fahlgren or who talked to him. That is his statement.
8 I don't know who said that, or what policy they were
9 referring to.

10 Q. So it sprung unaided from Mr.
11 Commissioner Fahlgren's mind. Can you advise the Board
12 what form the policy referred to was supposed to take;
13 was it one document?

14 A. Which policy are you referring to?

15 Q. The policy that Commissioner Fahlgren
16 refers to in the middle of the paragraph -- in the last
17 paragraph on page 5-21.

18 A. I don't know what policy Mr. Fahlgren
19 was referring to.

20 Q. So is it your position that
21 Commissioner Fahlgren is referring to a non-existent
22 Ministry of Natural Resources' policy on reducing the
23 size of permitted cuts?

24 A. As I have said before, we had - when
25 Commissioner Fahlgren was conducting his examination -

1 a host of silvicultural guidelines, ground rules,
2 prescriptions which involved modification of cutting
3 patterns, which involved clear cuts, which involved
4 shelterwood, which involved selection management,
5 uneven age management, all of those may or may not have
6 sizes or patterns.

7 I don't know if Mr. Fahlgren was
8 referring to one single document or not.

9 Q. Well, just assist me if you can, Mr.
10 Cary. Does the Ministry have a policy, whether it is
11 in one document or not, on reducing the size of
12 permitted cut? Surely you know the answer to that
13 question?

14 A. It does not have a policy that is
15 targeted at reducing the size of clear cuts. For that
16 single purpose, no.

17 MRS. KOVEN: But the effect of some of
18 the standards and guidelines is to reduce the size of a
19 certain area, for example, the moose habitat?

20 MR. CARY: Exactly.

21 MRS. KOVEN: That reduces the size of one
22 area of clear cut?

23 MR. CARY: Exactly, yes.

24 MR. CASTRILLI: Q. That is if they are
25 applied; is that right, Mr. Cary?

1 MR. CARY: A. Yes, and they are applied
2 in the timber management planning process.

3 Q. The guidelines by themselves do not
4 do anything, it is only if they are applied; is that
5 correct?

6 A. That's correct.

7 Q. And panel, is it 11 or 10, is going
8 to deal with the application of those guidelines,
9 the panel on cutting?

10 A. Panel 10 deals with the harvest?

11 Q. Yes. Is that the panel that is going
12 to deal with that?

13 A. With so aspects of the guidelines we
14 have been talking about, yes.

15 Q. That is fine, thank you.

16 Now, the last part of that paragraph, or
17 the last sentence in that paragraph on page 5-21
18 states:

19 "The Ministry does not appear to collect
20 or release statistical information on
21 clear cut size, so the move to smaller
22 cuts cannot be varified."

23 Do you see that sentence?

24 A. Yes.

25 Q. Does the Ministry of Natural

1 Resources want to take the opportunity afforded by this
2 hearing to produce statistical information to verify a
3 movement to smaller cuts, or can we conclude with
4 Commissioner Fahlgren that any such movement is not
5 verifiable?

6 A. The maps of cut-over on each
7 management unit exists for a period of years back in
8 time and are available in the district office, that's a
9 requirement under the Crown Timber Act.

10 The cut-over mapping is done as a matter
11 of course. An examination of that material might
12 reveal -- well, it will reveal what it reveals. The
13 cut-over is mapped. Down at the district level, that
14 is the nature of the business.

15 Q. Let me ask you, Mr. Cary: Is the
16 Ministry going to reveal what it is the districts
17 reveal or the district information reveals in Panel 10
18 so I have an idea of what is coming?

19 A. I think Panel 10 -- sorry, Mr.
20 Freidin.

21 MR. CASTRILLI: Is it Panel 10 that
22 deals with harvesting?

23 MR. FREIDIN: Panel 10 will deal with
24 harvesting, I believe, subject to me advising the Board
25 and Mr. Castrilli otherwise, will be attempting to

1 provide the Board with some sense of what type of
2 cutting practices are used and where. There will be
3 some quantifiable --

4 THE CHAIRMAN: Is there going to be
5 chronological or historical comparison with what has
6 happened in the past and what is happening presently?

7 MR. FREIDIN: I cannot advise you.

8 MR. CARY: So on those cut-over maps you
9 will be able to pick out shape, size, pattern, kept at
10 the district level, management unit by management unit.

11 MR. CASTRILLI: Q. Mr. Cary, my question
12 was: Will this Board have an opportunity to attempt
13 the verification that Commissioner Fahlgren attempted
14 and was unsuccessful. Is the Ministry going to provide
15 that information in Panel 10?

16 MR. FREIDIN: I have provided the
17 information that I have at the present.

18 MR. CASTRILLI: Sorry, I don't understand
19 what that means.

20 Q. Is the answer yes or no to my
21 question?

22 MR. CARY: A. The answer is as Mr.
23 Freidin says, we do not intend to give that
24 information, as I understand it, in Panel 10.

25 Q. So it exists at the district level

1 but nobody can see it at this hearing; is that right?

2 MR. FREIDIN: That is not what -- Mr.
3 Cary. Mr. Chairman, I have indicated to the Board the
4 extent to which I can be definitive about whether
5 statistics of some sort will be provided in relation to
6 the size of clear cuts.

7 Now, as I say, my understanding is that
8 there will be an attempt to do something along those
9 lines. If there isn't, it will be quite obvious when
10 we file the documentation for Panel No. 10, but that is
11 our present intention.

12 I cannot be any more definitive than that
13 and I don't believe asking the witness whether he
14 agrees with me or not is going to be of any assistance.

15 THE CHAIRMAN: And you will be setting
16 out in the witness statement or the Executive Summary
17 the gist of the evidence you will be producing in Panel
18 10; is that right?

19 MR. FREIDIN: That is the intent.

20 MR. CASTRILLI: I can wait.

21 Q. Page 5-22 of Exhibit 161, the first
22 full paragraph on the page. Commissioner Fahlgren
23 states:

24 "Some people argued that clearcutting
25 does no more harm to the forest than the

1 extensive fires that sweep through it
2 every century or so. They said that both
3 fires and clearcut result in regeneration
4 of homogenous even-aged stands. There is
5 some evidence, however, that burnt-over
6 areas regenerate more quickly and more
7 evenly than clearcut areas. Indeed, a
8 more persuasive view seems to be that
9 without special site preparation and
10 tending, clearcut areas spawn greater
11 growth of less desirable deciduous
12 species; i.e., poplar. Unless reduced
13 in number, these can smother the more
14 valuable coniferous species during the
15 initial regeneration phase."

16 Do you agree with that statement, Mr.

17 Cary?

18 MR. CARY: A. Mr. Castrilli, I think Mr.
19 Armson has talked about the effects of fire versus the
20 effects of clearcutting in Panel 2 and also in evidence
21 of this panel, so I would like to ask him to comment on
22 that.

23 Q. Mr. Armson, so you understand my
24 question--

25 MR. ARMSON: A. I have.

1 Q. --I wish to know whether you agree or
2 disagree with Commissioner Fahlgren's assessment as I
3 just read it into the record? Yes or no?

4 A. It is an incomplete statement and,
5 therefore, I cannot agree with it.

6 Q. Would you like to enlighten the Board
7 as to why you cannot agree with it?

8 A. It leaves out totally the
9 consideration for the objectives of management. There
10 may be clear cut areas, as I believe I have indicated
11 previously in direct evidence, where we specifically
12 treat to attain a certain type of forest and we may or
13 may not be successful in doing that, or it may be left.

14 But the statement, as it stands there,
15 takes no cognizance of management objectives and that
16 surely is a most important aspect.

17 Q. I am not quite sure what you mean by
18 management objectives. What is left out of the
19 statement that a reference to a management objective
20 would help?

21 A. There is no consideration in the
22 paragraph, there is a blanket comparison between
23 clearcutting and fires, and taken in the context that
24 we are discussing management and the application, first
25 of all of planning a planning process, the definition

1 of specific objectives of management and the
2 characterization, as in the Timber Management Planning
3 Manual and the whole process, including the application
4 of silvicultural ground rules towards attaining those
5 objectives, which have been commented on a number of
6 times, it seems to me that that, therefore, is an
7 important element.

8 If I might, Mr. Chairman - and it is
9 perhaps unfortunate, but in the page 5-31 which is not
10 included in this exhibit but was in Exhibit 3 of the
11 Fahlgren Report and, therefore -- I believe that is the
12 Fahlgren Report, Exhibit No. 3?

13 THE CHAIRMAN: I think it is Exhibit 33.

14 MR. CASTRILLI: Q. 33.

15 MR. ARMSON: A. 33. If I might quote
16 then from 5-31 of the Fahlgren Report, Exhibit 33.

17 And this relates back to clearcutting and
18 regeneration. On the fourth paragraph -- or at least
19 the third complete paragraph on that page, and I will
20 read this:

21 "Artificial regeneration is by necessity
22 required for clearcut areas."

23 That is the statement made categorically
24 by Mr. Fahlgren on page 5-31. That is not an accurate
25 statement.

1 Q. What is not an accurate statement?

2 A. That artificial regeneration is by
3 necessity required for clearcut areas. There are many
4 clearcut areas that are clearcut to attain valid and
5 approved objectives of management that need not be
6 artificially regenerated.

7 Q. In other words, you are saying they
8 can be naturally regenerated?

9 A. That is correct.

10 Q. That is fine, we will get to that in
11 a moment as well. The third paragraph on that page,
12 5-22, the paragraph begins:

13 "Less visible..."

14 MR. ARMSON: A. Yes, I have that.

15 Q. The question is directed to Mr. Cary,
16 unless you are telling me, Mr. Cary, you cannot answer
17 these questions.

18 The question -- let me read the question
19 first -- the statement first:

20 "Less visible at least initially are the
21 effects of machinery used in
22 clearcutting. Soil compaction and ruts
23 that hamper regeneration are common
24 results."

25 Do you agree with that statement, Mr.

1 Cary?

2 MR. CARY: A. No, I do not.

3 Q. Can you advise the Board why you do
4 not?

5 A. Well, Commissioner Fahlgren uses the
6 word common. In my experience as a field forester and
7 from travels around the province, I disagree with the
8 word common. It simply is not common.

9 Q. Does it happen, Mr. Cary?

10 A. It may have happened, yes, but in
11 very isolated places and I do not believe that the
12 compaction and rutting has had any permanent hampering
13 of regeneration.

14 Q. So, Mr. Cary, your evidence is that
15 Commissioner Fahlgren focused on something in his
16 report -- focused on something that rarely happened in
17 that paragraph. Is that your testimony?

18 A. I disagree with Commissioner
19 Fahlgren's statement there.

20 Q. The answer to my question is "it
21 rarely happens?"

22 A. That's correct.

23 THE CHAIRMAN: Mr. Castrilli, I think in
24 this area of questioning the Board would also like to
25 hear the opinion of Mr. Armson, as well as Mr. Cary.

1 MR. CASTRILLI: I am content.

2 THE CHAIRMAN: The Board feels they are
3 both qualified within the limits of their experience
4 and knowledge to give these answers and they may be
5 differ amongst themselves but, if so, we would like to
6 know about it.

7 MR. CARY: I would just like to add
8 again, Mr. Chairman. The effects of harvest are giong
9 to be discussed in a later panel and this particular
10 topic will be discussed.

11 MR. CASTRILLI: With all due respect, Mr.
12 Chairman, since I have not seen this later panel I
13 cannot afford the luxury of taking the view that what I
14 want an answer to now with respect to the relationship
15 between clear cutting and regeneration will in fact be
16 within the expertise of the witnesses who appear in
17 Panel 10.

18 Mr. Freidin has left me no option, I am
19 entitled to ask these questions now.

20 THE CHAIRMAN: Mr. Castrilli, there is no
21 doubt in the Board's mind that you are entitled to ask
22 these questions and elucidate whatever answers you can
23 from this panel. It is perfectly proper.

24 MR. CASTRILLI: Sorry, I think we are at
25 the point where Mr. Armson was going to add to Mr.

1 Cary's answer.

2 THE CHAIRMAN: If you can.

3 MR. ARMSON: Yes, I would be pleased to,
4 Mr. Chairman.

5 First I would agree with Mr. Cary, soil
6 compaction and ruts that hamper regeneration are common
7 results. I would say that this is an incorrect
8 statement.

9 The basis (a) they are not common and,
10 secondly, that the hampering of regeneration by either
11 compaction or rutting may occur, but it is very minor
12 in the scale in which we are talking. And I would he
13 will elaborate on where.

14 The compaction of soils by equipment as
15 as factor hampering regeneration in the boreal forest
16 region and the Great Lakes/Saint Lawrence region is
17 minimal to the point of being insignificant. There are
18 very local specific areas but, essentially, it is
19 almost a matter of total insignificance.

20 Rutting on individual and specific areas
21 has been and may indeed, in isolated, instances be
22 present. It is on the better grain, finer textured
23 soils almost completely a function of the time of year
24 in which machinery or equipment and the nature of that
25 equipment is used.

1 For example, in the early spring after
2 the frost has gone out of the ground, that is when
3 certain soils are much more susceptible and they should
4 not be operated on and in the silvicultural ground
5 rules for the management of any area with that type of
6 soil, that should be a constraint or restriction on the
7 use of that type of equipment.

8 THE CHAIRMAN: Is it in fact a constraint
9 in the guidelines?

10 MR. ARMSON: It is in certain -- I know
11 of one or two units, but I can't speak for the whole
12 province.

13 The second area I can speak - and it is
14 much more general - and that is, both in the early 70s
15 and mid-70s, the rutting on organic soils in the
16 frost-free season developed major rutting. These were
17 areas that were occupied primarily by bullrushes, in
18 the succession of the development, they created a
19 problem in terms of any artificial regeneration and,
20 indeed, were somewhat destructive of natural
21 regeneration.

22 One of the first pieces of ground rules
23 relating to that type of situation came into being in
24 1980 with the first forest management agreement areas
25 where the ground rules stated that the use of skidders

1 that caused that rutting would not be permitted on
2 those areas in the frost-free season.

3 At the same time, I would add, the forest
4 companies involved, together with the cooperation of
5 the Forest Engineering Research Institute of Canada
6 undertook to develop high-flotation equipment using
7 very large tires and they have developed and perfected
8 the use of those high-flotation materials so that it is
9 now possible on the wet organic soils, on a large
10 majority of them, to use that equipment and, in fact,
11 not only to do "no environmental damage" but, in fact,
12 advanced growth is virtually unaffected even when the
13 machine will roll over it because of the very
14 exceedingly low pressure.

15 And I would suggest that those facts
16 which have come into place since 1980 and I would note
17 that Mr. Fahlgren's Report is dated 1985, clearly
18 indicate to me that his statement was, at the best, a
19 misleading one to say that they are common results.

20 MR. CASTRILLI: Q. So, in your opinion,
21 Mr. Armson, Commissioner Fahlgren got it wrong; is that
22 right?

23 MR. ARMSON: A. In my professional
24 judgment, that statement is in error.

25 Q. Let's move on to the next page. The

1 top paragraph, Commissioner Fahlgren notes:

2 "Many foresters are opposed to large
3 clearcuts. Some cite for example higher
4 water tables in cut-over black spruce
5 swamps. Others speak of the increased
6 likelihood of wind damage to the uncut
7 forest surrounding large cut-over areas.
8 Some foresters are also concerned because
9 as much as a third of new growth depends
10 on falling seeds from nearby trees.
11 Large clearcuts thus reduce the potential
12 for natural regeneration."

13 Mr. Armson, a moment ago you read into
14 the record a reference to page 5-31?

15 A. Correct.

16 Q. In which Commissioner Fahlgren
17 indicated that artificial regeneration is by necessity
18 a requirement for clear cut areas and you said that is
19 not necessarily so, those areas could regenerate
20 naturally.

21 Now, on page 5-23 Commissioner Fahlgren
22 indicates:

23 "Large clearcuts reduce the potential for
24 natural regeneration."

25 First of all, Mr. Cary, do you have an

1 opinion on that, do you agree with Commissioner
2 Fahlgren's assessment on that page?

3 MR. CARY: A. No, I do not.

4 Q. Would you like to indicate why you do
5 not?

6 A. It is my professional observation
7 that clear cuts regenerate naturally.

8 THE CHAIRMAN: Excuse me. Do they
9 regenerate, Mr. Cary, at the same rate as areas that
10 have not been subjected to clear cut?

11 MR. CARY: When you say not been
12 subjected to clear cut, what do you mean, Mr. Chairman?

13 THE CHAIRMAN: Well, I suppose an area
14 that has not matured into a mature forest, it would be
15 regenerating as you go along. If you have a clear cut
16 area, will the regeneration be retarded, in your view,
17 because of the clear cut?

18 MR. CARY: May I perhaps contrast
19 artificial treatments and the rate of return on those
20 to those which are naturally regenerating unassisted.

21 The unassisted regeneration usually,
22 again depending on species, usually takes a longer time
23 to establish itself on that site.

24 The objective of our artificial
25 regeneration treatments is to speed that process up and

1 to promote a shortening of the final rotation.

2 MR. MARTEL: Is that the only difference
3 that you feel occurs is a rate in speed, a rate of
4 time?

5 MR. CARY: Sorry, Mr. Martel?

6 MR. MARTEL: Is the major factor a time
7 factor primarily that you see between these naturally
8 treated and -- or natural and treated areas, the main
9 factor is one is much -- is somewhat faster in
10 development?

11 MR. CARY: That's the objective of our
12 silvicultural program to speed -- to control the
13 species, firstly, and then to shorten the rotation and
14 get a quicker supply.

15 MR. CASTRILLI: Q. Sorry, were you
16 finished with your answer?

17 MR. CARY: A. Yes, I was.

18 Q. Mr. Armson, do you want to answer
19 something, I don't wish to cut you off.

20 MR. ARMSON: A. No, I would again agree.
21 If I might comment on the statements in that paragraph
22 because the preceding sentences in that paragraph lead
23 to the last sentence, presumably, the statement in the
24 last sentence:

25 "That large clearcuts thus reduce the

1 potential for natural regeneration."

2 And I would like to point out that
3 although the statements and sentences before are
4 preceded by "many foresters are opposed" and "some
5 foresters are also concerned", and I take that as a
6 generality, but I would like to note that, for example,
7 the higher water tables in cutover black spruce swamps
8 I will be specifically speaking to that particular
9 issue in Panel 9.

10 And that, again, it is a general
11 statement which I would suggest to the Board is not
12 necessarily the valid one.

13 Q. Mr. Cary, you indicated a moment ago
14 that clear cuts regenerate naturally. Assuming you
15 have a clear cut area, an area that's been clear cut,
16 is free to grow for poplar your idea of regeneration
17 success if what used to be on that site was black
18 spruce?

19 MR. CARY: A. We have regeneration
20 success, yes.

21 Q. If what you planted was black spruce?

22 A. Well, I am now confused.

23 Q. Or if it was there was there black
24 spruce before?

25 A. That would depend on your management

1 objective for that particular forest unit.

2 Q. So is your testimony that poplar is a
3 more desirable species than black spruce in this
4 province? Is that what the industry wants, poplar
5 instead of black spruce?

6 A. No, the industry at this point in
7 time requires more softwoods than poplar. As you
8 heard, things change over time, so...

9 Q. So they want more black spruce and
10 not poplar; is that right?

11 A. At this particular point in time.

12 Q. Moving on, the bottom paragraph on
13 that page, 5-23 of Exhibit 161, Commissioner Fahlgren's
14 Report. He notes that:

15 "Despite the negative evidence of
16 clearcutting's effects on the forests,
17 lakes and rivers forest product companies
18 and the equipment manufacturers serving
19 them seem to be doing very little to
20 remedy the situation. Equipment
21 managers, I was told, are developing less
22 harmful low ground pressure logging
23 machines. Apparently some are available
24 though few are yet in use. This is
25 difficult to understand. If farm

1 tractors were suddenly found to be
2 harmful to the productivity of soil
3 manufacturers would quickly have new
4 equipment on the market and farmers would
5 be clamouring to get them. Forest
6 product companies obviously do not have
7 the same attitudes as farmers, nor do
8 they seem to recognize that their future
9 welfare is inextricably linked to the
10 ongoing and rapid regeneration of the
11 forest crop."

12 Do you agree with that statement?

13 A. That whole paragraph?

14 Q. Yes.

15 A. No, I do not.

16 Q. Do you agree with any part of it?

17 A. I would just like to point out that a
18 few moments ago Mr. Armson commented specifically with
19 regard to equipment modification because of operations
20 on organic soils and, that was, the companies developed
21 that equipment, that high-flotation equipment and that
22 started in 1980.

23 So I am not quite sure what Mr. Fahlgren
24 means here. It seems to me that the forest industry
25 companies, as they took over and were responsible for

1 implementing the silvicultural operations on their
2 lands, made immediate steps to develop equipment.

3 So I cannot agree with that.

4 Q. Yes, I recall Mr. Armson stating that
5 equipment had been available since 1980 and you will,
6 of course, note that this report of Commissioner
7 Fahlgren is June, 1985, so you are saying that, in your
8 opinion, Commissioner Fahlgren did not take account of
9 what was already well known and in use?

10 A. I am saying that, in my view, there
11 was equipment in use, having been developed by
12 companies early the 80s, that was in use with that very
13 objective in mind.

14 Q. Are these new technologies mandatory?

15 A. The silvicultural ground rules --

16 Q. Let's talk about low pressures tires,
17 are they mandatory?

18 A. Site-specific, it depends on what
19 site.

20 Q. So they are discretionary; is that
21 correct?

22 A. No, site-specific.

23 Q. What does that mean?

24 A. It means that the silvicultural
25 ground rules will establish when and how those

1 particular sites are to be operated. When, being
2 season time of year and, then, what equipment may be
3 used within that framework.

4 So it is; again, decisions at the
5 management unit according to silvicultural ground
6 rules. That is what --

7 Q. Are the ground rules mandatory, Mr.
8 Cary?

9 A. The ground rules, yes.

10 Q. The ground rules are mandatory?

11 A. The silvicultural ground rules in the
12 forest management agreements have to be applied.

13 Q. And they will be dealt with in, is it
14 Panel 10?

15 A. Panel 10 deals with harvest. Yes, I
16 believe that Panel 10 will deal with aspects of the
17 ground rules.

18 Q. And will it also deal with the issue
19 of equipment to the extent ground rules do?

20 A. Yes.

21 Q. Thank you. Moving to the top of page
22 5-24 of Exhibit 161, Commissioner Fahlgren notes that:

23 "The Commission found no pre-determined
24 restrictions exist to limit the size or
25 extent of clearcuts. Limits appear to be

1 imposed by the Ministry of Natural
2 Resources as negotiated maximums when
3 operating plans for cutting and access
4 road construction are submitted, that
5 even if these are ignored, the offending
6 companies are rarely penalized."

7 Do you agree with that statement, Mr.
8 Cary?

9 A. No, I do not.

10 Q. Do you agree with any part of that
11 statement?

12 A. No, I do not.

13 Q. So, in your opinion, Commissioner
14 Fahlgren misapprehended the situation again; is that
15 correct?

16 A. I believe that paragraph is
17 misleading.

18 Q. The paragraph -- Commissioner
19 Fahlgren was misleading; is that your testimony?

20 A. That paragraph is misleading.

21 Q. The fourth paragraph on the page,
22 Commissioner Fahlgren notes:

23 "What the Ministry has not done is to
24 devise and impose standards and rules for
25 permissible and environmentally suitable

1 cutting."

2 Do you agree with that statement,
3 paragraph 4?

4 A. Well, if I go to paragraph 3,
5 Commissioner Fahlgren makes the statement:

6 "This is not to say that the Ministry of
7 Natural Resources has totally failed to
8 recognize the environmental dangers of
9 existing practices and related management
10 methods."

11 And then he goes on to paragraph 4. And
12 I disagree with that statement for reasons that I have
13 already explained, silvicultural ground rules, et
14 cetera.

15 Q. Can you advise the Board when the
16 silvicultural ground rules were approved by the
17 Ministry?

18 MR. ARMSON: A. If I might, Mr.
19 Chairman, the silvicultural ground rules or the ground
20 rules, as they are called - but they embrace other
21 aspects besides the silvicultural prescriptions - were
22 and are a component of the contractual obligations of
23 forest management agreement holders and, therefore, are
24 in place in every agreement that has been executed
25 since the beginning of that program in 1980.

1 Q. So they were around in 1985 -- sorry,
2 so they were around in 1980?

3 A. They are a part of the contractual
4 obligations for the first and every forest management
5 agreement since.

6 Q. And your testimony is Commissioner
7 Fahlgren's comment do not take account of that; is that
8 correct? You don't see any reference to them and,
9 therefore, you presume he took no account?

10 A. That is correct, sir.

11 Q. Recommendation 5 -- we can actually
12 read them together, 5.16 and 5.17 on page 5-24. The
13 first one is that:

14 "The Ministry of Natural Resources
15 prescribe the circumstances in which
16 clearcutting should not be used."

17 Do you agree with that recommendation,
18 Mr. Cary?

19 MR. CARY: A. I believe our guidelines
20 definitely, what is the word, handle that situation.
21 We have -- within these silvicultural guidelines,
22 within the approved management plan we establish
23 practices for each forest unit that prescribe how the
24 harvest take place within that.

25 So that's part and parcel of every

1 management plan. So I believe that they exist.

2 Q. Sorry, your testimony is that what
3 Commissioner Fahlgren is recommending should come into
4 play in fact already exists?

5 A. It is there. Yes, it exists.

6 Q. So Commissioner Fahlgren got it wrong
7 again; is that your testimony?

8 A. I feel that Commissioner Fahlgren
9 perhaps wasn't properly advised in this regard.

10 Q. Now, with respect to recommendation
11 5.17, that reads that:

12 "The Ministry formulate and issue on a
13 regular basis standards for cutting
14 the boreal forest and set out appropriate
15 cutting methods for representative forest
16 areas."

17 Do you agree with that recommendation?

18 A. No, I do not because inherent -- as I
19 keep saying - and I am sorry to have to repeat myself -
20 Inherent in the planning at the management unit level
21 the standards are set out in the prescriptions for
22 harvest in the boreal forest, forest unit by forest
23 unit.

24 Q. Recommendation 5.18 which, in part,
25 refers to the Reed tract as it was known at that

1 time -- I am sorry, recommendation 5.18 states that:

2 "For the forest areas in the Reed
3 tract and north of existing Crown and
4 company management units, licensees be
5 required to demonstrate that proposed
6 uses of clearcutting and related clearcut
7 configurations will not irreparably harm
8 regeneration capabilities of effective
9 sites."

10 Stop the quote there. Do you agree that
11 that would be an appropriate recommendation to follow?

12 MR. FREIDIN: I am just wondering how
13 relevant that is to the proceedings since it is clear
14 that the undertaking, I don't believe, goes into those
15 areas.

16 MR. CASTRILLI: It certainly goes north
17 of 50.

18 THE CHAIRMAN: Well, I do not see the
19 harm, Mr. Freidin, in having the witnesses answer this
20 question.

21 MR. CARY: I would say that that would be
22 a consideration wherever in the area of the
23 undertaking; north, south, east or west.

24 MR. CASTRILLI: Q. Is it?

25 MR. CARY: A. Yes.

1 Q. Where?

2 A. On the management units where the
3 cutting takes place, where the harvest takes place.

4 Q. In what form, management plans?

5 A. Yes.

6 Q. Anyplace else?

7 A. In the guidelines.

8 Q. Which guidelines, the silvicultural
9 guidelines or others?

10 A. Others.

11 Q. Which are the others; the moose, the
12 tourist, the fisheries, are those the ones you are
13 referring to?

14 A. That's correct.

15 Q. Panel 10?

16 A. Yes.

17 MR. FREIDIN: A part of it.

18 MR. CARY: A part of it.

19 MR. CASTRILLI: Q. Just a hypothetical
20 question, if I might, Mr. Cary. Since we don't know
21 what submissions or you don't know what submissions
22 the Ministry of Natural Resources made to Commissioner
23 Fahlgren, we can't ask you, obviously, a direct
24 question.

25 But let's assume for the moment the

1 Ministry did make submissions on the points that
2 Commissioner Fahlgren has dealt with in his report, his
3 final report.

4 Would you agree with me that you -- or
5 the Ministry and Commissioner Fahlgren are not ad idem
6 on any single point in what is now Exhibit 161 that I
7 read into the record?

8 A.. I don't think we covered every single
9 point.

10 Q. Just the points I read into the
11 record, not the entirety of what I didn't, just what I
12 read into the record and asked you questions about.

13 I don't recall you agreeing to
14 practically anything. So would you agree with me that
15 if the Ministry made recommendations or submissions to
16 Commissioner Fahlgren with respect to those points, he
17 disagreed with the Ministry on practically every one?

18 A. I think the record speaks for itself.
19 I am in disagreement with the items I have stated that
20 I am in disagreement with.

21 Q. You haven't answered the
22 hypothetical. I asked you: If the Ministry made
23 submissions on those points, would you agree with me
24 that there is no agreement between the Ministry and
25 Commissioner Fahlgren on those points?

1 If, it is a hypothetical?

2 A. Yes.

3 Q. Thank you. Let's turn to page 125 of
4 your evidence.

5 MR. CASTRILLI: Mr. Chairman, can I
6 assume we will be breaking roughly at 12:30?

7 THE CHAIRMAN: That's correct.

8 MR. CASTRILLI: Thank you.

9 Q. Mr. Cary, we are now onto Document 9,
10 page 125, the item known as Item 5, modified harvest
11 cutting.

12 Would you agree with me, Mr. Cary, that
13 what Mr. Dixon is saying under that heading is that
14 there was industry opposition to the use of modified
15 cutting and industry was requesting increasingly large
16 subsidies for its use. Is that the gist of that?

17 MR. CARY: A. That is what Mr. Dixon
18 says.

19 Q. Your answer is yes?

20 A. Yes.

21 Q. Can you also confirm for me, Mr.
22 Cary, that the advent of the forest management
23 agreements has reduced the amount of modified
24 harvesting, notwithstanding that the FMA is a
25 substantial subsidy program for, among other things,

1 which should make road building which should make
2 modified cutting more feasible?

3 Isn't that what Mr. Dixon is saying in
4 that section?

5 A. Yes, he is saying that the area of
6 modified harvest cutting, particularly in spruce stands
7 has declined on FMAs. I would have to have a look at
8 the records there in order to confirm that. I haven't
9 done that.

10 Q. Presumably Mr. Dixon did in order to
11 make this statement?

12 A. Yes.

13 Q. Mr. Cary, I would like to introduce
14 the Ministry's response to our interrogatory on this
15 page.

16 A. I have it, Mr. Castrilli. Yes,
17 Question No. 8.

18 MR. CASTRILLI: Mr. Chairman, I would ask
19 this be made the next exhibit.

20 THE CHAIRMAN: Exhibit 162.

21 ---EXHIBIT NO. 162: MNR response to Interrogatory
22 Question No. 8 posed by CELA.

23 MR. CASTRILLI: Q. Sorry. Mr. Cary, I
24 understand you have had an opportunity to review what
25 is now Exhibit 162?

1 MR. CARY: A. Yes.

2 Q. We asked:

3 "Were there minutes of meetings, letters
4 briefs or other written records kept
5 respecting Ministry and forest industry
6 discussions on the issue of modified
7 harvest cutting and subsidies..."

8 And we asked for said minutes, letters
9 briefs or other written records. Your answer was:

10 "Almost all of the personnel who took
11 part in these discussions are no longer
12 with the Ministry. Current staff are
13 not aware of the existence of written
14 records of these discussions."

15 A response not unlike I received on a
16 previous interrogatory. I am just wondering, how does
17 the Ministry archive its file, or does it archive its
18 files?

19 A. There are things - and I am not
20 really qualified to speak about that - but I believe
21 things called records retention schedules which
22 prescribe how long records are to be retained and then
23 if they are to be archived or not and then, how long
24 they are to be archived for.

25 I believe that's in Policy and Procedure

1 in the administration end of it, end of our Ministry.
2 That's my opinion.

3 Q. I presume you made inquiries when you
4 saw this interrogatory. Could you advise the Board
5 what inquiries you made?

6 A. I contacted personnel in Forest
7 Resources group and asked them if they had any
8 knowledge of this task that was set up under the
9 implementation -- it was called Forest Production
10 Policy Implementation Tasks - and, as Mr. Dixon says,
11 there were 63 of them that were to be undertaken
12 between '73 and '76.

13 And I asked them to investigate and
14 examine their files with regard to this particular item
15 called modified harvest cutting, and I was unable --
16 they were unable to produce documentation or letters,
17 briefs, minutes with regard to this specific task.

18 Q. It disappeared, or it didn't exist;
19 which is it, or do they know or do you know?

20 A. They were unable to retrieve,
21 locate -- or locate these particular pieces of paper.

22 Q. Can I presume that you also went
23 through that exercise with respect to the previous
24 interrogatory, that was the one with respect to clear
25 cutting. It is now exhibit--

1 A. Yes, I believe that is on the record.

2 Q. Exhibit 156?

3 A. Yes.

4 Q. So the archives -- sorry, is that an
5 exercise in investigating whether the material is in
6 the archives or does that include that exercise?

7 A. I do not know if the personnel that I
8 talked to in Forest Resources group went into the
9 archives, I do not know that.

10 Q. Could I ask that when you are making
11 the further inquiries you are making with respect to
12 questions -- Exhibit 156, that you do the same thing
13 with respect to Exhibit 162 and, in particular, request
14 an investigation of the archives with respect to that.

15 MR. ARMSON: A. If the information is
16 there.

17 THE CHAIRMAN: Mr. Freidin, I think it is
18 reasonable, when parties are asking for relevant
19 documentation from the Ministry, that the Ministry
20 personnel who would be responsible for making those
21 inquiries, whether it is a particular witness on a
22 panel or not, make all of the relevant inquiries.

23 And it seems to the Board that the
24 Ministry should know where it keeps documentation, if
25 it keeps it at all, or if it exists. It should not be

1 up to the outside parties to have to try and figure out
2 where the Ministry or what section of the Ministry
3 would be keeping this documentation.

4 The question should be asked by the
5 Ministry to the relevant people and that inquiry should
6 be comprehensive in the sense that it should cover the
7 Ministry as a whole and if the documentation is there,
8 then, it should be produced, if it is deemed relevant
9 and the Board confirms that it should be produced or,
10 if it is not there, that should be stated.

11 Unfortunately, the impression is left,
12 Mr. Cary, that you made inquiries but perhaps not to
13 the right section or perhaps the people you inquired
14 from didn't proceed on to the next step which would
15 have been, for instance, to inquire of the archives.

16 I think it is incumbent upon the Ministry
17 to make the appropriate inquiries within its own
18 structure. That is only fair.

19 MR. FREIDIN: I agree with you, Mr.
20 Chairman and if that is necessary, if that hasn't been
21 made clear enough or hasn't been understood by my
22 client, I intend to have them do that to make that
23 quite clear right now.

24 THE CHAIRMAN: Thank you.

25 MR. CASTRILLI: Thank you, Mr. Chairman.

1 Q. Mr. Cary, can I direct your attention
2 back to Exhibit 161 on this issue of Commissioner
3 Fahlgren's report, page 5-26. The second full
4 paragraph on that page.

5 Mr. Cary, in that paragraph Commissioner
6 Fahlgren notes:

7 "Costs he agrees are initially high for
8 modified cutting but since companies
9 under forest management agreements must
10 now also plan for long-term continuous
11 regeneration activities, modified cutting
12 from this perspective is far from being
13 as expensive as companies may think."

14 Do you agree with that statement, Mr.

15 Cary.

16 MR. CARY: A. I agree we need a good
17 road system in order to plan for long-term continuous
18 regeneration activities. I agree that we have to tend
19 the areas, and if that is the objective of Commissioner
20 Fahlgren's remarks, I agree that we need a road system
21 that gives us good access.

22 Q. Mr. Cary, the paragraph seems
23 reasonably obvious to be dealing with the issue of the
24 costs of modified cutting. Can you give me an answer
25 with respect to the paragraph?

1 A. I agree that that would be a cost
2 that should be borne if we are going to, as we do,
3 continue long-term regeneration activities.

4 Q. Would you agree, as the paragraph
5 suggests, Mr. Cary, that the costs of modified cutting
6 are far from being as expensive as companies think.
7 Please give me an answer to that question, yes or no?

8 A. How am I to comment on what companies
9 think, I find that difficult. I don't know where
10 Commissioner Fahlgren got his information but, in a
11 general sense, I agree with Commissioner Fahlgren's
12 statement.

13 Q. I think he is outlining what it is in
14 the continuing paragraph. Do you want to take an
15 opportunity to read that paragraph.

16 A. I have read the paragraph.

17 Q. Do you wish to add anything to your
18 answer?

19 A. No.

20 Q. Now, page 5-27, the last paragraph
21 under the heading -- or the only paragraph under the
22 heading of the recommendation that appears there, 5.21.
23 The Commissioner outlines that the environmental
24 assessments could contribute to the formulation of the
25 standards for cutting the boreal forest that he has

1 recommended previously in recommendation 5.16 and which
2 you have already commented on, and he notes that:

3 "These standards should, of course,
4 encompass all cutting methods including
5 modified clearcutting."

6 Do you wish to add anything to the answer
7 you gave previously when I asked you about that
8 recommendation?

9 A. No, I don't.

10 MR. CASTRILLI: Mr. Chairman, this would
11 be a reasonable place to break for lunch.

12 THE CHAIRMAN: Very well. We will break
13 until two o'clock.

14 Ladies and gentlemen, I just wanted to
15 mention at this time, because there might have been a
16 misunderstanding, that the sittings for next week are
17 going to commence on Wednesday, as you are probably
18 aware, and I think it would be preferable if everyone
19 made plans to be in Thunder Bay on Tuesday night so
20 that we can commence the sitting on Wednesday at 9:30
21 in the morning instead of a delayed start.

22 That will allow us to sit all of
23 Wednesday, all of Thursday, and a shortened day on
24 Friday. I am not sure we made that clear when we
25 announced that we would not be sitting Monday and

1 Tuesday.

2 Thank you.

3 ---Luncheon recess at 12:30 p.m.

4 ---Upon resuming at 2:05 p.m.

5 THE CHAIRMAN: Thank you. Be seated,
6 please.

7 Well now that Mr. Castrilli is through
8 ...

9 MR. CASTRILLI: I am just getting
10 started, Mr. Chairman.

11 THE CHAIRMAN: Go ahead.

12 MR. CASTRILLI: Q. Mr. Cary, I am
13 wondering if you can just help me out with some MNR
14 terminology that I continue to be unclear about.

15 Can you define -- or how does Ministry of
16 Natural Resources define a policy, a policy.

17 MR. FREIDIN: That was covered in Panel
18 1.

19 MR. CARY: Yes. I believe -- I was just
20 about to say that, I believe that Panel 1 defined the
21 Ministry definitions of policy.

22 MR. CASTRILLI: Q. I know, but the
23 subject matter has come up in this panel, we have a
24 Forest Production Policy.

25 Perhaps you can just advise me, you have

1 used the terms policies, guidelines and ground rules,
2 more importantly what they mean in the scheme of things
3 in terms of whether they are mandatory or not?

4 MR. CARY: A. May I comment on the
5 Forest Production Policy in that context?

6 Q. Sure and then you can pick a
7 guideline, you can pick a ground rule too?

8 A. The Forest Production Policy that was
9 approved in 1972 by government is the policy of the
10 Ministry of Natural Resources with regards to the
11 objective the government has set us, the 9.1-million
12 cunit per year target of industrial fiber at the year
13 2020. That is a stated Ministry objective by the
14 policy and it remains the program's objective.

15 Q. So you are expected to pursue that
16 objective?

17 A. That's correct.

18 Q. Perhaps you might want to hold off a
19 moment until the background noise abates.

20 A. An example of a guideline would be
21 the silvicultural guides for the working groups that
22 the Ministry has: black spruce, jack pine -- jack pine
23 is a good example, and they form the guidelines when a
24 unit forester, when he or she considers the management
25 of that species.

1 I believe that silvicultural guides --
2 the objective of silvicultural guides are described in
3 the EA Document and I don't know what page they are
4 described at. 185 I am told and so I can turn to that.

5 And I may state that:

6 "Reference to these guides in the
7 development of management prescriptions
8 during the timber management planning
9 process is mandatory."

10 So the management forester --

11 Q. Sorry, what page are you referring
12 to, 185?

13 A. 185 of the EA Document which is
14 Exhibit No. 4.

15 MR. FREIDIN: 133 to 136 are the lines
16 that the witness has quoted.

17 MR. CARY: An elaboration of the
18 description -- or an elaboration of the guide's
19 function is provided on page 186.

20 MR. CASTRILLI: Q. Then I had better
21 also ask you to comment on guidelines, since there is a
22 difference, it appears; is there not, between
23 guidelines and guides, in general?

24 A. In general, we use the term
25 synonymously, at least that's my opinion. We have

1 guidelines for the protection of fishery habitat,
2 guidelines for the protection of tourism values.

3 Those are guidelines that have to be
4 considered again in the management planning process.

5 MR. FREIDIN: Do you want the reference
6 in relation to mandatory for those guidelines? The
7 three provincial guidelines relating to protection for
8 other values in timber management are defined on page
9 188, lines 28 to 29.

10 MR. CARY: It states:

11 "Application of these three provincial
12 guidelines in the timber management
13 planning process is mandatory."

14 MR. CASTRILLI: Q. Okay. Well, perhaps
15 you can tell me then what a policy guidelines?

16 MR. CARY: A. I am unfamiliar with that
17 term. Can you give me an illustration?

18 Q. Yes, Exhibit 21, the Ministry of
19 Natural Resources first exemption under the
20 Environmental Assessment Act?

21 A. I have just given that exhibit back
22 to Mr. Tuer. I am sorry, I will need it again.

23 MR. TUER: (handed)

24 MR. CASTRILLI: Q. The same paragraph
25 we were talking about before the luncheon break:

1 "A review of all aspects of forest
2 regeneration and development of definitive policy
3 guidelines and size of clearcuts."

4 THE CHAIRMAN: Is that not terminology,
5 Mr. Castrilli, that is used by the Ministry of the
6 Environment as opposed to the Ministry of Natural
7 Resources?

8 It is the Ministry of the Environment's
9 exemption order; is that not correct?

10 MR. CARY: That's correct.

11 MR. CASTRILLI: Well, I presume since the
12 Ministry of Natural Resources sought an exemption for
13 something, they are the ones that stated what it was
14 they were doing that the Ministry of Environment should
15 consider as a basis for providing the exemption, so I
16 presume the Ministry of Natural Resources gave the
17 Ministry of the Environment the wording.

18 Q. Is that true or not, Mr. Cary?

19 MR. CARY: A. I am not in a position to
20 confirm that.

21 THE CHAIRMAN: I guess all I am saying,
22 it is possible that various ministries of government
23 use different terminology.

24 MR. CASTRILLI: Yes, but what I would
25 hope Mr. Cary would confirm for me is that the Ministry

1 of Natural Resources, itself, doesn't use different
2 terminology for the same concept.

3 I am not sure I have an answer to that
4 question.

5 Q. Is it your testimony that the
6 Ministry of Natural Resources had nothing to do with
7 the development of what appears in Exhibit 21?

8 MR. CARY: A. I have already spoken to
9 that, I am unaware.

10 Q. You are unaware?

11 A. Yes.

12 Q. That's fine. So did the Ministry
13 know what it was seeking an exemption for or what it
14 obtained by way of exemption when it received this
15 order?

16 MR. FREIDIN: I don't know where this is
17 going to get us, Mr. Chairman. Everybody knows what we
18 are here to get approval for and that's the
19 undertaking.

20 MR. CASTRILLI: Mr. Chairman, I think it
21 is relevant because there is a use of terminology, the
22 multiple, triple and quadruple use of terminology
23 for -- the same terminology for different concepts and
24 different terminology for the same concepts.

25 And this is just another example of it in

1 a particular area that is the subject matter of this
2 particular panel and I would like Mr. Cary to sort it
3 out for me, if he can.

4 MR. FREIDIN: I have no concern with the
5 questions going along that line, but the questions
6 which I objected or made comment was not of that type.

7 THE CHAIRMAN: Okay. Well, you have
8 asked Mr. Cary what, in his opinion, is meant, if he
9 knows, by the term policy guidelines.

10 Mr. Cary, can you answer that?

11 MR. CARY: No, I cannot because I don't
12 believe I have -- I am not familiar with a policy
13 guideline of this Ministry.

14 THE CHAIRMAN: Mr. Armson, anybody else
15 on the panel?

16 MR. ARMSON: It is a term that I am not
17 familiar with in my experience in the Ministry.

18 THE CHAIRMAN: Mr. Gordon?

19 MR. GORDON: No.

20 DR. OSBORN: No, sir.

21 MR. CASTRILLI: Q. So you don't know
22 what it was you got an exemption for; is that right?

23 MR. CARY: A. We requested an exemption
24 for the undertaking.

25 Q. And a basis was given for that

1 exemption and when you saw that basis, you did not make
2 comment?

3 A. I did not see that basis -- this is
4 the first time I have seen this document.

5 MR. CASTRILLI: Mr. Chairman, I won't
6 pursue it with this witness at this time.

7 THE CHAIRMAN: Very well.

8 MR. CASTRILLI: Q. Page 130 of your
9 evidence. It is under the heading of regeneration
10 assessment. Mr. Dixon notes there that:

11 "A detailed assessment procedure was
12 being developed and that the success for
13 failure of natural or artificial
14 regeneration efforts from 1973 to 1980
15 would not be accurately determined
16 because of the lack of data."

17 I am very interested in how the Ministry
18 cannot have data for an eight-year period on a program
19 that was pumping millions of dollars of taxpayers'
20 money into.

21 Did the Ministry attempt to obtain the
22 data subsequently for the period 1973 to 1980, and when
23 I mean, I mean subsequently to the writing of Mr.
24 Dixon's Report?

25 MR. CARY: A. Mr. Castrilli, you have

1 heard in earlier evidence of this panel what we have
2 done and what we will do with regard to this specific
3 area of assessment and Mr. Gordon and Mr. Armson have
4 talked about the results, some of the results of the
5 efforts of our regeneration work during that period.

6 Q. That period being the period of '73
7 to '80?

8 A. And after 1980 too.

9 Q. My question was not directed to after
10 1980, Mr. Cary, with respect, it was directed to the
11 period 1973 to 1980.

12 Is it your testimony that subsequent to
13 Mr. Dixon's Report, the Ministry was still unable to
14 obtain the data referred to in Mr. Dixon's report and
15 which he comments upon in that paragraph for the period
16 1973 to 1980?

17 A. The last data in the SOARS Report,
18 Mr. Armson, is what year?

19 MR. ARMSON: A. For planting 1974.

20 MR. CARY: A. I am not aware of any
21 comprehensive province-wide survey that was conducted
22 to evaluate the success of the provincial program
23 during those years.

24 I should like to add, however, district
25 records - and as Mr. Gordon has explained -

1 inconsistently kept, but there are data at the
2 management unit level.

3 There was no attempt, as far as I am
4 aware, of to draw together data for that period on a
5 provincial basis.

6 Q. Do you agree with me, Mr. Cary, that
7 it seems the Ministry of Natural Resources consistently
8 applies technology before the results, both short and
9 long-term, have been evaluated?

10 A. Applies technology...

11 THE CHAIRMAN: How can you do that before
12 you apply the technology? How can you evaluate what
13 you are doing before you apply the technology?

14 MR. CASTRILLI: Well, after the
15 technology.

16 Q. I mean; isn't that what Mr. Dixon is
17 commenting on? You went forth and you regenerated but
18 you did not evaluate; isn't that what he is saying
19 there?

20 MR. CARY: A. He is saying that -- I
21 believe he is saying that he could not find in 1980 any
22 comprehensive information that would lead him to
23 conclusions about the success of our efforts from 1973,
24 and, therefore, he uses some information that he did
25 obtain that's portrayed on Table 25 and some added

1 information on Table 26.

2 MR. CASTRILLI: Mr. Chairman, I would
3 like to introduce the next interrogatory on this next
4 matter.

5 Q. Mr. Cary, I am showing you an
6 interrogatory we filed.

7 MR. CARY: A. Oh, I have a copy.
8 Somebody else might want it.

9 MR. CASTRILLI: It is Question No. 9 of
10 our interrogatory. Mr. Chairman, I ask that that be
11 made the next exhibit.

12 THE CHAIRMAN: Exhibit No. 163.

13 ---EXHIBIT NO. 163: Interrogatory Question No. 9 posed
14 by CELA.

15 MR. MARTEL: Could I have a copy?

16 MR. CASTRILLI: (handed)

17 MR. MARTEL: Thank you.

18 MR. CASTRILLI: Q. Mr. Cary, we asked
19 you ask a question respecting this in our
20 interrogatories.

21 I would like to direct your attention to
22 Question (B). We asked you to provide statistics on
23 natural and artificial regeneration success for the
24 period 1973 to 1980 for the area of the undertaking on
25 a district, regional and provincial basis or on a

1 management unit basis.

2 Your answer was:

3 "We are not able to supply this
4 information on a comprehensive
5 provincial, regional or district basis.
6 Assessment information is kept at the
7 management unit on a project-by-project
8 basis. Retrieval of this information is
9 not practicable."

10 What do you mean by project basis?

11 MR. CARY: A. Mr. Chairman, this
12 evidence, I believe, was given by Mr. Gordon in our
13 direct. May I give this to Mr. Gordon, Mr. Castrilli,
14 or would you like me to answer?

15 Q. Who wrote the answer to the
16 interrogatory?

17 A. I think it was developed jointly. We
18 can't remember exactly who wrote this one, but it was
19 developed either by Mr. Gordon, Dr. Osborn or myself.
20 I know Mr. Armson was on the stand at the time.

21 THE CHAIRMAN: Well, you are interested
22 in the answer, Mr. Castrilli, so does it matter who
23 answers it?

24 MR. CASTRILLI: Well, I would like to
25 know -- however, I am not unprepared to accept an

1 answer from whomever has an answer but I would like to
2 know, if Mr. Cary had a hand in the answer, what he
3 understands the answer to be, then I can open it up to
4 others, but I would like Mr. Cary's answer first.

5 THE CHAIRMAN: Very well.

6 MR. CARY: Yes. Can you repeat the
7 question, please?

8 MR. CASTRILLI: Q. What do you mean by
9 in what you say in the answer to (B) particularly with
10 respect to assessment information is kept at the
11 management unit on a project-by-project basis?

12 What do you understand by
13 project-by-project basis to mean?

14 MR. CARY: A. We have -- we conduct
15 projects. Projects may be planting projects, seeding
16 projects, modified harvest cutting projects. We call
17 them projects. They pertain to a specific piece of
18 geography, average size, 25-50 hectares. They are kept
19 by township or base map.

20 The exact location, and all the
21 information that pertains to the implementation of that
22 project, how many trees, what time of year, the
23 survival information that Mr. Gordon talked about is
24 kept on that project file. If that project is tended,
25 that information is kept on that project file.

1 So it pertains to a specific piece of
2 geography on a management unit that's identified and
3 mapped and all the information that pertains to that
4 project, say it is planting, is kept on file at the
5 district.

6 And there are a series of projects within
7 a calendar year and we keep a project file of each one
8 of these that is carried out during that year. We also
9 have site-preparation projects and a whole host of
10 other projects too.

11 Q. I only want to hear from the other
12 witnesses if they disagree with Mr. Cary.

13 THE CHAIRMAN: Mr. Gordon?

14 MR. GORDON: I think Mr. Cary has hit the
15 nail on the head.

16 MR. CASTRILLI: That's fine.

17 Q. Now, you indicate in the next
18 sentence of Item (B):

19 "Retrieval of this information is not
20 practicable."

21 Without actually asking you to produce
22 it, because I want to understand the background to the
23 irretrievability of this particular type of
24 information, considering it is done on a
25 project-by-project basis.

1 MR. CARY: A. The shear numbers of
2 projects is the simple answer. I remember practicing,
3 and in one year we may have conducted seven or eight
4 planting projects on a company management unit.

5 Work on a Crown management unit may havee
6 30, 40, 50 planting projects much smaller areas,
7 discreet, small areas scattered over a range of base
8 map -- base maps or townships.

9 The seeding, again, we look at geography.
10 Scattered seeding projects, maybe five on one base map
11 and these progress across base map after base map as
12 the cut moves and as we treat. So it is just shear
13 numbers.

14 I have no idea how many projects are
15 carried out in a year. Maybe Mr. Gordon can give me a
16 better idea, but there are 99 management units. So it
17 is a large number. That's our main concern.

18 MR. GORDON: A. The number would be in
19 the order of thousands and, as well, you were looking
20 for assessment data. Although there is no question
21 that there will be some assessment data on some of
22 those project files, we don't have a list of which
23 project files contain assessment data, so if you were
24 to go looking through these thousands of project files
25 looking for assessment data, you would have to go

1 through all of them to find this data that you are
2 looking for.

3 And, of course, the reason we don't have
4 that data on every single file is because we haven't
5 got the resources to collect information on every
6 single file, nor is necessary to collect information on
7 every single file project relative to assessment.

8 Q. Can you advise me how the Ministry is
9 able to determine or model how successful it will be in
10 achieving any of its wood supply targets that we've
11 talked about in this panel if it has no measure of the
12 success of its reparation work to date.

13 I mean, isn't that what you are telling
14 us, Mr. Gordon?

15 A. No, I don't think I said that. I
16 think relative to specific projects we don't have
17 information for every specific project.

18 Q. Well, wait a minute, we are talking
19 about assessment. How are you in a position to model
20 or determine if you will be successfully able to
21 achieve your wood supply targets if you don't have a
22 measure of the success of the regeneration work you
23 have done to now?.

24 You just told me it is not practicable to
25 retrieve it. What do you base your targets on if you

1 don't have any indication of what the results the
2 assessment are?

3 A. We do have some information. For
4 example, we presented by way of example results for
5 second year survival for planting for five management
6 units.

7 Q. We are going to talk about that
8 later?

9 A. That we went specifically out and
10 collected the information for the individual project
11 files and the reason we only went to five was because
12 it would take so long to go to all of them.

13 Based on doing things like that, based on
14 experience, we then made some assumptions as to what
15 potential regeneration success will be in the future
16 and I think we explained that when we were going
17 through our discussion on model inputs as to what
18 assumptions, what factors we considered in the modeling
19 exercise.

20 MR. MARTEL: Could I ask a question,
21 because we have heard a number of times that the
22 Ministry's ability to collate material under certain
23 headings couldn't be done or it was at the unit level
24 or -- is it the Ministry moving to a standardized way
25 of reporting everything so that, in fact, one can get a

1 handle through assessment or any other device of what
2 is going on, both in terms of cut or successful
3 regeneration, volumes.

4 Because this theme, I think, I am not
5 misreading it, continues to occur over and over again.

6 MR. GORDON: We are developing right now
7 a computer-based silvicultural information system for
8 the province of Ontario and that work is ongoing right
9 now and they have actually done a lot of the computer
10 work and they are going through a debugging process
11 right now and it will be consistent across the
12 province.

13 It will recognize some variations between
14 southern Ontario and northern Ontario that is what is
15 happening. As well, if you look at the new Timber
16 Management Planning Manual, we have annual reports that
17 are required for each management unit and there is a
18 series of tables that must be filled out for each
19 management unit and that information will be available.

20 MR. CASTRILLI: Q. To whom?

21 MR. GORDON: A. To whomever asks for it.

22 Q. I have a feeling I have asked for it
23 and I have been told I can't get it.

24 THE CHAIRMAN: No, I think in reference
25 to that there was certain information on certain

1 schedules that might be kept confidential because of it
2 being of commercial value to particular companies
3 involved.

4 But, apart from those items - I believe
5 Mr. Armson testified to this - everything else will be
6 made publicly available. Is that not true?

7 MR. ARMSON: Yes, that is correct, Mr.
8 Chairman.

9 MR. CASTRILLI: Mr. Chairman, my
10 understanding is that the material in the Timber
11 Management Planning Manual was not confidential. Mill
12 data from another source maybe, but not the material
13 required to be filed in the Timber Management Planning
14 Manual.

15 Q. Isn't that correct, Mr. Armson?

16 MR. ARMSON: A. The information in the
17 Timber Management Planning Manual and the records
18 associated with that are public documents.

19 The only material -- a certain of the
20 information that is on the mill licence returns that is
21 used in relation to the woodflow, that was the only
22 material that is not publicly available.

23 Q. Okay. Now, we know it is publicly
24 available. Is it publicly retrievable on a systematic
25 basis that doesn't require six months of somebody's

1 time in the Ministry of Natural Resources to do..

2 It is collected on an annual basis; is
3 it retrievable on an annual basis and reported on an
4 annual basis in a public document that anyone can go to
5 a bookstore and obtain, or a Government Bookstore and
6 obtain?

7 MR. FREIDIN: There are two questions
8 there.

9 MR. ARMSON: Could I speak to the first,
10 Mr. Chairman?

11 I think it is quite clear from the
12 statements of Mr. Gordon and Mr. Cary, and it certainly
13 was true when I was undertaking my study, that in order
14 to get any information where it was kept - and these
15 were in the projects records - I had to personally go
16 into the district level to those records and I believe
17 that it is -- it would be true to say that the system
18 often of ledgers or various forms of cards that have
19 been used over time by the Ministry have been all
20 manually done, they often entail maps and so on which
21 are not readily either aggregated or that even the
22 numerical information requires a considerable amount of
23 time and effort by persons to transcribe that.

24 And what we are looking at is a situation
25 over a period of time, particularly from the mid-1960s

1 on, as the Board is aware, from the graphs showing the
2 amount of site preparation and planting and seeding, as
3 that increased, the numbers of projects increased and,
4 in fact, the ability, if you like, or the capability to
5 continually transcribe manually this kind of
6 information became less and less. And I think that's
7 what we are looking at quite simply.

8 And, as Mr. Gordon has indicated, we have
9 come to a point where, by virtue of - and the Board
10 heard in Panel 2 about the use of computers - we now
11 have electronically ways in which we can shift and we
12 are shifting and, as Mr. Gordon said, that system is
13 not in place yet, but it is being - as he used the
14 word - I think debugged.

15 And the basis for the information from
16 the Timber Management Planning Manual and records at
17 the district level and using that system are the key
18 to, in fact, moving towards that.

19 And I would sincerely believe that
20 certainly in the future that kind of record will be not
21 only available but readily retrievable to provide to
22 those who wish to have it.

23 THE CHAIRMAN: But there is no attempt on
24 the part of the Ministry to go back in time and get
25 onto the computerized system any past information?

1 Is that what I understand?

2 MR. ARMSON: The only information we
3 have -- that may happen, but as I testified in giving
4 evidence on SOARS, the people who are doing that went
5 back and catalogued all the old projects and put those
6 on computer, that was a first step, so at least we can
7 identify what the projects were and they are all in a
8 computerized based catalogue.

9 It doesn't give you all the information
10 but at least you know what you have got.

11 MR. MARTEL: Will we be able to, or at
12 some point see this process, because I think it is
13 encumbent we see it in that -- because we keep hearing
14 it isn't available and we hear complaints: Well, they
15 couldn't get information or someone couldn't get
16 information.

17 It might be worthwhile to the Board
18 seeing some of that.

19 MR. ARMSON: I would suggest, Mr.
20 Chairman, that perhaps in some future site visit or
21 perhaps later on - certainly in one of the future
22 panels I believe there will be some evidence of that
23 type of information and how it is kept - but certainly
24 in a future site visit I would suggest that the Board
25 actually ask for that information at the district

1 level.

2 THE CHAIRMAN: Will there be any attempt
3 by the Ministry, Mr. Freidin, to put before the Board
4 some more data with respect to the computerized -- the
5 format of the computerized system? I am not asking for
6 a demonstration if it is not up and running, but can
7 the Board have a better appreciation of what exactly
8 will be available as soon as it is up and running in
9 terms of data reproduction?

10 MR. GORDON: As soon as it is developed
11 we could do that. I would anticipate the way the
12 hearings are going - and I don't mean that in a bad
13 way - that this Panel No. 16 that is going to be
14 dealing with, I think, timber monitoring and that may
15 be an appropriate time to give you a very complete
16 update as to what the status of that project is and
17 what it will be able to do for us.

18 MR. FREIDIN: And it would be my
19 intention to, in fact, lead whatever evidence we can to
20 address the concern as specifically put by Mr. Martel.

21 We always intended to lead evidence about
22 monitoring and what records were being kept, but I
23 think perhaps it would be advisable for us to go back
24 into a little more detail, and that is what we should
25 be doing a number of weeks, if not months from now.

1 Yes, we will be dealing with that.

2 MRS. KOVEN: I don't remember, looking at
3 the mill returns, that it had anything to do with
4 assessment data in terms of the regeneration effort.

5 MR. ARMSON: That's correct.

6 MRS. KOVEN: It doesn't. So what
7 information are we talking about? Mr. Castrilli was
8 asking about...

9 MR. CASTRILLI: Assessment data.

10 MRS. KOVEN: Assessment data and
11 regeneration efforts but we are talking about an
12 entirely different kind of information that really
13 isn't relevant to this at all.

14 MR. CASTRILLI: Q. Mr. Armson, so I
15 understand your testimony, assessment -- regeneration
16 assessment data is required to be filed now under the
17 FMA process on an annual basis and several of the
18 tables in the Timber Management Planning Manual; is
19 that correct?

20 MR. ARMSON: A. It is filed according to
21 the Timber Management Planning Manual. That manual
22 applies to timber management on all Crown lands
23 including forest management agreement areas.

24 Q. And that's applied since 1980?

25 A. The Timber Management Planning Manual

1 has not, it has only been in existence and in force
2 since 1986, but the Forest Management Agreement Manual
3 applied.

4 Q. Forest Management Agreement Manual.

5 A. That was a manual that I believe the
6 Board heard about, I can't speak to its exhibit number
7 but I believe it was mentioned, was written
8 specifically for the forest management agreement
9 program in 1980 and had the force of statute and
10 applied until the Timber Management Planning Manual
11 came into effect in 1986.

12 MR. FREIDIN: Exhibit 120, Mr. Chairman.

13 MR. CASTRILLI: Q. All right. So there
14 has been something requiring FMA holders to produce
15 annual regeneration assessment information since 1980;
16 is that correct?

17 MR. ARMSON: A. No.

18 Q. Since when, then?

19 A. The Forest Management Agreement
20 Manual did not require assessment data on an annual
21 basis. The manual applied to record keepings that
22 would be pertinent or applicable to each of the forest
23 management agreement areas, it did not address
24 assessment, per se.

25 Q. Why not?

1 A. I think the key reason was that the
2 manual introduced for the first time in the province,
3 the principle and the standard of free to grow which
4 was based on the criteria that have been mentioned, and
5 that was considered to be the most important element in
6 terms of assessing the effectiveness of treatments.

7 And those, as I think the Board is aware,
8 are not made normally within the first five years of
9 the regeneration treatment. The requirement also under
10 that manual and under the forest management agreement
11 area was that where areas failed to regenerate to a
12 satisfactory stocking at the fifth year, that the
13 company was obligated to regenerate them at their own
14 cost.

15 So there was built into it a fact that at
16 the five-year mark from the time of treatment there
17 would be an assessment and that would be -- the
18 responsibility initially would be that of the
19 companies.

20 Q. So I understand it, however, the
21 Timber Management Planning Manual does require an
22 annual report of regeneration success on a management
23 unit by management unit basis; does it not?

24 That is what the Timber Management
25 Planning Manual is all about.

1 A. Yes, I believe so.

2 Q. And you say that is since 1986?

3 A. That's correct.

4 Q. So that in future it will be
5 retrievable on an annual basis; will it not?

6 A. It will be retrievable if the data by
7 units - and remember that the data is still kept at the
8 management unit level - and Mr. Gordon has stated that
9 the important factor is to have that data so that it
10 can be aggregated at the appropriate level.

11 It is one thing to have the data at the
12 unit on a sheet of paper, it is another to have it as
13 you have pointed out, Mr. Castrilli, capable of being
14 aggregated and available in a reasonable amount of
15 time.

16 THE CHAIRMAN: Is that data not going on
17 the computerized system?

18 MR. GORDON: At this point in time annual
19 reports are produced at each management unit and a
20 paper copy is sent into Head Office and then, at that
21 point in time, right now that is then put into the
22 computer.

23 And, for example, if we refer to Mr.
24 Castrilli's client's Question No. 11, we provided that
25 information, the results of the provincial tabulation

1 of those annual reports for the management units, Table
2 6.71.

3 MR. CASTRILLI: Q. It is just for the
4 last three years; is that right?

5 MR. GORDON: A. The reason being we have
6 only done it for the last three years because the
7 manual has only been in effect for the last three
8 years. However, obviously we will be continuing to do
9 that for every year from now on.

10 Q. And as I understand your testimony,
11 it wasn't considered necessary in 1980, when the FMA
12 program kicked off, to include a requirement for that
13 information to be kept then?

14 MR. ARMSON: A. I think it fair to say,
15 Mr. Chairman, that in 1980 this province entered upon a
16 rather major step forward with the companies entering
17 into FMAs, undertaking responsibilities for both
18 management and introducing -- and the data collection.

19 In retrospect, I think that perhaps -
20 although that would have been considered important -
21 there were some major issues that had to be dealt with
22 and also major records and the free to grow record
23 which was the comparison of areas that came back into
24 production versus areas depleted was considered perhaps
25 the most important piece of information at that time.

1 Q. I wonder if I could refer you to page
2 66 of your evidence, Mr. Cary.

3 MR. CARY: A. Yes, I have that page.

4 Q. Can you confirm for me that this
5 chart compares actual hectares regenerated to that
6 proposed under the Forest Production Policy 1972?

7 A. Yes, it does.

8 Q. How did the Ministry of Natural
9 Resources obtain the data to produce this chart?

10 A. This data was submitted by -- from
11 management units, to districts, to regions, to main
12 office and it is simply, as I said in my evidence, a
13 record of silvicultural treatments. It is the actual
14 areas that were treated, it does not in any way
15 indicate the quality of regeneration success.

16 Q. So it is not assessment data 'is that
17 correct?

18 A. That's correct.

19 Q. Would you agree with me that it would
20 be more realistic to plot the actual artificially
21 regenerated hectares that meet stocking and density
22 standards against the planned level?

23 A. A very difficult task. With so many
24 different objectives for each working group or forest
25 unit, different standards, the different periods of

1 free to grow, it would be an extremely difficult
2 exercise and, again, I think you would be comparing
3 apples and oranges.

4 In many instances you would have to
5 separate seeding treatments from planting treatments,
6 perhaps bare root from container, modified harvest
7 cutting from seeding. There would be all - it would be
8 a very complicated process to aggregate on a provincial
9 basis.

10 Q. Or to report on a management unit
11 basis?

12 A. No, on a management unit basis they
13 have access to that information, should the assessment
14 data be collected.

15 Q. That is very interesting. They had
16 it but they cannot or they don't make it available to
17 you in a manner that you can provide it to others?

18 A. It is the aggregation that is the
19 problem, Mr. Castrilli, into a provincial picture which
20 I think is what you are suggesting we should have.

21 Q. I am just wondering which is the
22 better route to pursue, or why you couldn't do both
23 quite frankly: Why couldn't you produce it on an
24 aggregate basis and why couldn't you also produce it in
25 the manner in which it is originally developed; i.e.,

1 at the management unit basis?

2 A. Well, the TMPM, the Timber Management
3 Planning Manual may provide an opportunity to start
4 that sort of comparison.

5 Q. Since 1986?

6 A. Yes.

7 MR. GORDON: A. I think what I tried to
8 point out in my evidence is that things such as
9 stocking and density, while they are very important to
10 the local manager assessing condition of a stand at a
11 given point in time, at this point in time we feel that
12 that benchmark assessment is something called free to
13 grow.

14 And, as you will see if you look at the
15 TMP Manual and, as you know because of your
16 Interrogatory, Table 6.71, we produce an annual report
17 that summarizes the areas that are free to grow and
18 they will be -- and were aggregated for you
19 province-wide.

20 MR. CASTRILLI: Q. We will be coming to
21 that. Now, on page 131, Mr. Dixon notes that:

22 "Success rate of the 1970-72 study was
23 high but only 49 per cent of the
24 regenerated areas had 80 per cent or more
25 of the potential yield of the sites they

1 occupied."

2 Mr. Cary, I would like to refer you back
3 to what is now Exhibit 163, Question 9. It is the very
4 last exhibit we have entered in evidence.

5 Do you have that before you?

6 MR. CARY: A. Your Question No. 9?

7 Q. Yes.

8 A. (C)?

9 Q. Yes.

10 A. Yes.

11 Q. We asked you to define potential
12 yield as used in the third sentence of that paragraph.
13 In effect, in the last line of that paragraph - and
14 your answer is found at the bottom of Exhibit 163 - and
15 you indicated that you were:

16 "...unsure of the authors' exact meaning
17 of potential yield. It may refer to the
18 production policy estimate of 20 cunits
19 per acre for artificial regeneration or
20 to the yields outlined in Plonski's
21 normal yield tables."

22 Now, Mr. Cary, I presume you wrote that
23 answer?

24 A. I believe that Dr. Osborn wrote that
25 answer.

1 Q. Dr. Osborn, can you advise the Board
2 what would the effect on the ability to meet the Forest
3 Production Policy implementation levels be if Dixon
4 means 20 cunits per acre?

5 DR. OSBORN: A. And the value of 49 per
6 cent is taken forever through time? Because if that is
7 the inference behind the comment, then obviously there
8 will be an underproduction.

9 However, in looking at this question in
10 retrospect and going back to trying to understand what
11 it was Mr. Dixon meant, I have a feeling that what he
12 was indicating was that from the values he had, 49 per
13 cent of the regeneration assessment indicated desirable
14 levels of stocking, which is 60 to 65 per cent if I
15 remember correctly, and those were the levels in his
16 mind back in 1972 that he thought were necessary at
17 five-year olds to produce 80 per cent stocking at
18 rotation age.

19 So when I first gave the answer I wasn't
20 quite sure exactly what the question meant or even what
21 was in Mr. Dixon's mind. In re-reading several
22 documents written by Mr. Dixon I had the impression
23 that he was looking at, or thinking that 60 per cent at
24 year five equates to 80 per cent at rotation age.

25 Now, the only comment I will make to that

1 as a mensurationist is: I do not know, and knowing Mr.
2 Dixon I am not sure what data if any he had to make
3 that assertion in 1972, that 60 per cent at year five
4 was a necessity to reach 80 per cent at rotation age.

5 THE CHAIRMAN: Well, is this not entirely
6 speculative, (a) to what data he relied on, (b) what he
7 meant by it, (c) what context he was writing it in?

8 DR. OSBORN: Absolutely, sir.

9 THE CHAIRMAN: I am just not sure of the
10 value of trying to go back into Mr. Dixon's mind when,
11 of course, he cannot be called to clear up any
12 discrepancies and we do not really know what he relied
13 on.

14 DR. OSBORN: I agree, sir. We were
15 trying to answer the question as best we could.

16 MR. CASTRILLI: Well, I think the
17 question -- or the meaning behind the question will
18 become evident in a moment.

19 Q. The other part of your answer to the
20 interrogatory, Dr. Osborn, was that Dixon might have
21 meant Plonski's normal yield tables. In that regard --
22 do you see that at the bottom of Exhibit 163?

23 DR. OSBORN: A. I do.

24 Q. If potential yield equals Plonski's
25 tables, does that not mean that probably one half of

1 the working group areas reflected in Table 25 on page
2 130 are below the potential yield?

3 A. That was the inference I got out of
4 the statement Mr. Dixon made in 1980.

5 Q. And that is because the last sentence
6 on page 130 says:

7 "Minimum stocking will produce a
8 merchantable crop at rotation age but one
9 much below the potential yield for the
10 area."

11 Is that right?

12 A. No, I don't think it has anything to
13 do with it. I think the comment before that is that
14 the desirable, which is where the 49 per cent values
15 come from - if you add up the desirables you get this
16 49 per cent overall average - the desirables is 60 per
17 cent at year five and the inference, I am quite
18 convinced the more I think about this, is that that was
19 translated as 80 per cent stocking at rotation age.

20 Q. But if potential yield equals
21 Plonski's tables, one of your theories, do you not
22 agree with me that when we look at Table 25 there is a
23 heading called Minimum and that if you have to
24 therefore mean you subtract that amount, it means that
25 approximately one half the working group areas

1 reflected in that table are below the potential yield?

2 A. With the inference that that level of
3 40 per cent stocking at year five translates as a less
4 than desirable level of stocking at rotation age. An
5 inference, I have said is, subject to discussion
6 amongst mensurationists world-wide.

7 Q. So that if I understand your answer
8 to my interrogatory, there is now a third option.

9 A. Yes, sir, there is.

10 Q. And that is the one you just stated
11 for the record?

12 A. Yes, sir.

13 Q. Turn to page 131, Mr. Cary, the third
14 paragraph on the page. I understand from reading it
15 that Mr. Dixon is indicating that very few stands have
16 satisfactory regeneration except for hard maple.

17 MR. CARY: A. That is what he indicates
18 Table 26 shows.

19 Q. And paragraph 4 on the same page,
20 page 131. Can you confirm that the plantations have
21 fairly low success rates?

22 A. He states that:

23 "Satisfactory regeneration is achieved on
24 52 per cent of jack pine, 41 per cent of
25 white and 23 per cent of black spruce."

1 Q. 2 per cent of white pine and 8 per
2 cent of red pine?

3 A. As shown in figure -- Table 26.

4 Q. He is referring to Figure 16?

5 A. I am sorry, yes, Figure 16 which is
6 page 133.

7 Q. So the answer to my question is yes?

8 A. That is what the -- yes, that is what
9 he shows from his analysis of Table 26.

10 Q. Would you agree with me that all we
11 can assume from the studies referred to in Dixon's
12 Report is that even the area classified as regenerated
13 from the years 1973 to 1980 was optimistic?

14 Turning to the last -- I am referring to
15 the last page, page 134, in the last paragraph on page
16 134.

17 A. That is Mr. Dixon's conclusion. I
18 presume he is saying that area classified as
19 regenerated means those areas that are naturally
20 regenerating and those areas that are treated.

21 So that is his conclusion from the
22 analysis of the data that he had.

23 Q. That's right. And if I could refer
24 you now to page 71 of your evidence.

25 MR. FREIDIN: What page?

1 MR. CASTRILLI: 71.

2 Q. It is the second page of the
3 Executive Summary. Do you have that page, Mr. Cary?

4 MR. CARY: A. Yes, I do.

5 Q. the item 10 on that page, the last
6 part of the sentence:

7 "These studies indicated that some of the
8 areas classified as regenerated will in
9 fact be failures."

10 Do you agree with that assessment?

11 A. Hindsight being 2020, I do not agree
12 with his statement. We -- through various surveys and
13 professional observation, we believe he is talking
14 about a snapshot in time, the data that he had at hand
15 and I don't think these areas that he has proclaimed
16 failures are indeed failures now, this time.

17 Q. Sorry, and when you say surveys, you
18 are referring to what surveys that you have relied on
19 to...

20 A. Not satisfactorily regenerated
21 surveys, the data that Dr. Osborn has talked about, the
22 data that Mr. Gordon has talked about.

23 Q. Is that data that is in your witness
24 statement?

25 A. There is some data in the witness

1 statement, yes.

2 Q. There isn't anything in your witness
3 statement -- sorry, there isn't anything else that you
4 are referring to for that statement that isn't in your
5 witness statement; is that correct?

6 A. I don't think so, no.

7 Q. Okay, thank you.

8 I would like to show you a document I
9 have served you with a notice of, it is an excerpt
10 again from Honer and Bickerstaff. As I say, it is an
11 excerpt, one page of that document.

12 THE CHAIRMAN: Exhibit 164:

13 ---EXHIBIT NO. 164: One-page excerpt from document
14 entitled: Canada's forest area
15 and wood volume balance 1977-1981:
16 an appraisal of change under
present levels of management
authored by T.G. Honer and
A. Bickerstaff.

17 MR. CASTRILLI: Q. Mr. Cary, the Table I
18 have reproduced from Honer and Bickerstaff, 1985, is
19 Table 4.1 in that report. It sets out figures for the
20 year 1981.

21 I would like to refer you to the third
22 column called annual area depletion. Do you have
23 that -- do you see that on the right-hand side of the
24 page?

25 MR. CARY: A. Yes, do I.

1 Q. You will note that by the way, the
2 table is in millions of hectares. So if we look down
3 to the column for Ontario, do you see that?

4 A. Yes, I have read it.

5 Q. That indicates 555,000 hectares
6 annual area depletion from the three sources that are
7 to the left of it: Harvest, burn and pests. Do you
8 agree?

9 A. That is the figure.

10 Q. Can you confirm that 191,000 hectares
11 of this was harvested or a depletion from harvest?

12 A. That is what the table says, yes.

13 Q. Then if we move over to the second
14 column or the column headed annual area accruals?

15 A. Yes.

16 Q. Can you confirm for me that Honer and
17 Bickerstaff note under the heading forest renewal that
18 54,000 hectares were regenerated, treated
19 artificially?

20 A. That is what the -- that is the
21 number.

22 Q. And one column over under the heading
23 natural regeneration, still under the second column
24 annual area accruals, 414,000 hectares of forest land
25 regenerated naturally. Is that -- can you confirm

1 that?

2 A. Yes, I can.

3 Q. If we add up the figures 54,000
4 hectares and 414,000 hectares we get the total
5 regeneration column which is 468,000 thousand?

6 A. That's correct.

7 Q. Would you agree with me that on the
8 basis of this table that there is a lot of forest being
9 depleted annually but not being treated, approximately
10 87,000 hectares?

11 A. I would like Dr. Osborn to comment on
12 this table. I don't know the source of this data and I
13 really would like to -- I think the Board should hear
14 what he has to say about this particular table.

15 Q. I am content to hear from Dr. Osborn.

16 DR. OSBORN: A. Based upon the question,
17 looking at Table 4.1. There is certainly a difference
18 between the total area depleted and the total area
19 regenerated.

20 Q. So your answer is yes?

21 A. I am just interested to know whether
22 you are going to pursue this because I am not sure
23 whether you understand where the data came from that
24 gave rise to Table 4.1.

25 I am waiting for the ensuing question.

1 Q. Well, we have 54,000 hectares renewed
2 in that table for artificial regeneration, that is out
3 of 55,000 depleted annually. That is approximately 10
4 per cent, Dr. Osborn.

5 A. Yes, but it is not in the same time
6 horizons. It is not the same years they are comparing,
7 that is why I asked you whether you knew where the data
8 came from.

9 Q. Well, let me ask you this Dr. Osborn.
10 Do you or don't you accept the figures in this table?

11 A. The Table in 4.1, I accept the
12 figures, yes.

13 Q. Do you have other data or figures you
14 would like to produce to this Board?

15 A. No, but I would like the Board to
16 understand where the numbers in this table came from
17 and what was trying to be shown by the authors of this
18 particular paper.

19 Q. Fine. Just so I understand your
20 answer so far, though, you do not have any other data
21 or figures you would like to produce to compare these
22 two; is that correct?

23 A. That's correct.

24 Q. Fine. Now, you wanted to explain to
25 the Board where the numbers come from in what is now

1 Exhibit 164?

2 A. Only so there is not a comparison
3 made as if this is an annual figure, for this
4 particular year this much was depleted and for this
5 particular year, this much was naturally or
6 artificially regenerated.

7 Q. I think the Board will probably want
8 to hear that, so I am content to hear that.

9 A. All right. In the original complete
10 document, the source of the renewal data, if I read
11 correctly, is an average annual value renewed from
12 75-79 from a publication by a Messrs. Brace and Golec
13 in 1982. So that is the source of the data that was
14 used for the regeneration figures that ended up into
15 Table 4.1.

16 THE CHAIRMAN: This is referred somewhere
17 else in that document?

18 DR. OSBORN: Yes, sir, on 2.2 it is a
19 footnote which describes -- the heading of the table is
20 forest renewed by planting and seeding 1975-1979. It
21 describes the source of regeneration data.

22 You don't have it, Mr. Martel. I have
23 the original complete document as written by Honer and
24 Bickerstaff.

25 And so what I wanted to present to the

1 Board was Table 4.1 portrays a total depletion and a
2 total renewal and there is, as based upon that table an
3 excess of depletion in relation to renewal. And, as
4 Mr. Castrilli points out, Table 4.1 so shows.

5 I merely wanted to make sure the Board
6 were aware of the source of some of the data that went
7 into Table 4.1.

8 THE CHAIRMAN: Okay. So explain in your
9 words the discrepancy?

10 DR. OSBORN: No, there was no
11 discrepancy, sir.

12 THE CHAIRMAN: Not in terms of the
13 figures, but obviously you are not comparing apples
14 with apples.

15 DR. OSBORN: And this is part of the
16 point I was wanting to make, it is part of the point
17 Mr. Cary has been trying to make is that at any one
18 particular point in time, any one year, the actual
19 total area deleted, from whatever source, can be
20 compared with the work done in regeneration as a
21 straight bookkeeping what happened this year.

22 In terms of on a particular piece of
23 land, historically what has happened, depletion and
24 subsequent years' efforts at regeneration, a history,
25 these kinds of data don't lend themselves to that kind

1 of analysis, unfortunately.

2 What Table 4.1 shows is on that
3 particular year or on average over the last "x" years
4 this is the comparison you can make. And the fact that
5 there is a deficit as shown in Table 4.1, depletion
6 versus accrual, regeneration, you have to understand
7 what that means when you look at it. It is on that
8 particular point in time these are the two values.

9 THE CHAIRMAN: So how can you ever get a
10 time that is acceptable for making a comparison of that
11 type?

12 DR. OSBORN: If you pursued something Mr.
13 Castrilli suggested earlier, the idea that on any
14 particular piece of land there is literally a history,
15 what has happened over time on a piece of land.

16 Now, Mr. Cary sort of answered a question
17 sort of along these lines. He says that it is
18 difficult, difficult to portray, not impossible but it
19 is difficult. And in fact the silvicultural assessment
20 system that Mr. Gordon alluded to is aimed along these
21 lines, this idea of a history on a particular piece of
22 real estate, a particular piece of land, what has
23 happened to it: Growth, cut, depletion, holding for 1,
24 2, 3, 4, 5 years, however long, regeneration.

25 Now, that historical record is more

1 useful to understand what's happened on that piece of
2 real estate than any one year's bookkeeping: Cut "x",
3 plant "y".

4 MR. MARTEL: Are you saying over 20 years
5 that one gets a better picture of the fact that some of
6 this natural regeneration that is added -- that fits in
7 with the artificial regeneration, and you get an
8 overview based on a longer period of time then?

9 DR. OSBORN: Yes, sir. The dynamics of
10 the situation are what is key. So that idea of looking
11 through time as to what has happened on a particular
12 piece of real estate gives a more understandable
13 picture of what is happening to the forest and how well
14 they are being managed, which is one reason why we
15 presented some evidence showing Time 1, Time 2
16 type-data. It is that dynamic picture over time that
17 is so key, rather than in any one year what has
18 happened this way versus that way.

19 THE CHAIRMAN: Well, if you are planting
20 periods effectively for some of these things are 20
21 years, then are you saying that when you go through
22 your five-year evaluations, when you get up to the 20th
23 year and you have maybe done four of them, you will
24 have a much more accurate picture; is that basically
25 what you are saying?

1 DR. OSBORN: Yes, sir, the idea of
2 comparing 20-year cycles has some merit. But, in the
3 mean time, one has to wait the 20 years. After five
4 years one can make comparisons likewise with an
5 understanding - much as Mr. Martel hinted at - that the
6 perceptions over a five-year period - this is a sort of
7 slow changing change situation in a way - is much
8 better viewed, much better understood at 20.

9 I make no apologies for the slow rate of
10 growth these things happen.

11 MR. MARTEL: The free to grow kicks in
12 and shows then at -- what is it, 10 or 11 years?

13 DR. OSBORN: Something in that order, Mr.
14 Martel, yes. So you have got some intermediary
15 pictures of the story.

16 Coming back to the point Mr. Castrilli
17 made: One has to have a record on this particular
18 piece of real estate what has happened over time. I
19 realize conceptually this is hard to get statistical
20 numbers around and annual reports don't speak to these
21 things in this way.

22 MR. CASTRILLI: Q. Continuing with the
23 figure of 614,000 hectares regenerated naturally from
24 the Honer and Bickerstaff Report which is Exhibit 164,
25 this would appear to indicate that natural regeneration

1 is occurring on the majority of forest area depleted;
2 would it not?

3 DR. OSBORN: A. Yes, sir, that's right.

4 Q. Mr. Cary, on August 8th you testified
5 that the Ministry of Natural Resources does not know
6 how well natural regeneration is going. I presume when
7 you made that statement you meant both with respect to
8 quality and quantity?

9 MR. CARY: A. With respect to natural
10 regeneration?

11 Q. Yes.

12 A. That's correct.

13 Q. I would like to refer you to Exhibit
14 29, it is the Statistics Report for 1987, page 19.

15 We are looking at the page entitled:
16 Crown Lands Treated and its area in hectares, years
17 ending March 31, and the period is 1983-1987.

18 Just looking at the 1987 column, can you
19 confirm for me that scarification, strip cutting, seed
20 tree cutting, shelterwood cutting and clear cutting are
21 the methods on that page that are meant to encourage
22 natural regeneration?

23 A. That's correct. We might term them
24 modified harvest cutting. Sorry, not scarification, I
25 apologize.

1 Q. Not including scarification?

2 A. The strip cutting, seed tree,
3 shelterwood cutting and clear cutting would be modified
4 harvest cutting. Scarification, as I have explained,
5 is a separate activity. I am sorry for misleading you
6 there for a moment.

7 Q. It is quite all right. The other
8 methods on that page above strip cutting then would be
9 artificial regeneration methods; is that correct?

10 A. No, scarification would be a natural
11 process that we call it -- artificial regeneration, as
12 we call it, would be planting bare root stock, planting
13 container stock, planting hardwood poplar cuttings and
14 seeding. That would be the group that we would refer
15 to as artificial regeneration.

16 Q. Sorry, and strip cutting, seed tree
17 cutting, shelterwood cutting and clear cutting are
18 natural, or do you include scarification in the
19 natural?

20 A. In the natural.

21 Q. You do, all right. Do you have your
22 calculator handy? Just for the year 1987, if we add up
23 the figures for scarification, strip cutting, seed tree
24 cutting, shelterwood and clear cutting, can you confirm
25 for me that the figure is 27,914 hectares, more or

1 less?

2 A. If this calculator is correct -- what
3 was the -- I have got 27,000 here, am I wrong? Sorry,
4 what was your number?

5 Q. My number was 27,914?

6 A. That's correct.

7 Q. All right. Those are the methods --
8 that's the total number of hectares in 1987 by which
9 regeneration was encouraged naturally?

10 A. Yes.

11 Q. Can you confirm for me that 27,914
12 hectares is well below the target level of 52,000 plus
13 hectares indicated in the Forest Production Policy for
14 1972 were annual expected natural regeneration; that
15 is 130,000 acres divided by 2.471?

16 A. The 130,000 acres that was assumed to
17 be regenerating unassisted by man is that 130,000
18 acres. It is not the aggregation of these particular
19 activities, the 27,914.

20 There is -- these activities are
21 considered to be regeneration treatments--

22 Q. To encourage the -- sorry.

23 A. --under the Forest Production Policy
24 and those are part of the 390,000 acres of regeneration
25 treatment that is our objective. The 130,000 comes

1 unassisted by man, we do not report that, it is not in
2 these statistics.

3 Q. Do you have any figures that speak to
4 what has occurred, or what did occur in 1987 naturally
5 regenerated without encouragement?

6 We seem to have two categories here, Mr.
7 Cary, would you agree? We have natural regeneration
8 unaided by man and we have natural regeneration aided
9 by man. Is that more MNR terminology that we are
10 supposed to understand?

11 A. I explained, obviously
12 unsuccessfully, the activities that we used to account
13 for our regeneration treatment, what activities we use
14 and I explained also the processes; the artificial
15 regeneration process and the natural process.

16 Although there is a natural process
17 involved in the modified harvest cutting treatments,
18 the expenditure of money, public money on these whether
19 we -- in planning, layout, time of year, for these
20 species that fit here, that costs us money and we
21 report it as such under the Implementation Schedule.
22 And those hectares are part of that 158,000-hectare
23 target that we hope to achieve.

24 Q. Just so I understand your testimony.
25 There is nothing in Exhibit 29 then that would advise

1 the Board of what was naturally regenerated in 1987
2 unaided by human hand; is that correct?

3 A. That's correct.

4 Q. Thank you.

5 A. I should point out we would have very
6 little information on what was naturally regenerated in
7 1987 in 1987.

8 Q. Well, do you have it for any year on
9 that page?

10 A. No, we don't.

11 Q. Thank you.

12 MR. CASTRILLI: Mr. Chairman, this would
13 be a reasonably appropriate place to break.

14 THE CHAIRMAN: Very well. 20 minutes.

15 ---Recess taken at 3:20 p.m.

16 ---Upon resuming at 3:50 p.m.

17 THE CHAIRMAN: Thank you. Be seated,
18 please.

19 MR. CASTRILLI: Mr. Chairman, can I have
20 some indication from the Board how late it intends to
21 sit today.

22 THE CHAIRMAN: Five o'clock.

23 MR. CASTRILLI: Five o'clock. I will
24 gear my cross-examination accordingly then.

25 Q. Mr. Gordon, could I ask you to turn

1 to page 165 of the evidence.

2 MR. GORDON: A. I have that page.

3 Q. You note in the last paragraph, the
4 statement there is that:

5 "The bulk of managed stands are 10 to
6 15 years old and the standards for these
7 stands have not been developed as they
8 are not old enough."

9 Is that the gist of that paragraph?

10 A. That's correct.

11 Q. Would you agree with me that although
12 the bulk of the stands were in this time period, that
13 is, the last 10 to 15 years, there certainly were areas
14 planted before this time?

15 A. That is correct.

16 Q. Can I refer you to page 223 of the
17 evidence, Mr. Gordon. The first paragraph on that page
18 indicates that:

19 "Artificial regeneration of Crown forest
20 lands in northern Ontario did not begin
21 in any significant amount until the
22 mid-1960s although there was some
23 planting of white and black spruce in the
24 northern and north central regions in the
25 late 1950s."

1 Do you agree with that statement?

2 A. I can't verify it, but I will assume
3 it is correct.

4 Q. Perhaps we can turn to page 224, it
5 is the next page. We are looking at Figure 1, the
6 heading: Areas Artificially Regenerated to White
7 Spruce, Black Spruce and Jack Pine in the Northern
8 Region.

9 Can you confirm for me that for white
10 spruce, which is the top graph on that page, some
11 planting took place as early as 1954?

12 A. That is correct.

13 Q. And with respect to black spruce, the
14 second graph on that page, as early as 1952 in the
15 northern region?

16 A. That is correct.

17 Q. Page 225. I am looking at Figure 2,
18 this is: Areas Artificially Regenerated to White
19 Spruce, Black Spruce and Jack Pine in the North Central
20 Region. Can you confirm for me that for white spruce
21 and black spruce, some planting took place as early as
22 1955?

23 A. That is correct.

24 Q. And that would be in the north
25 central region; is that correct?

1 A. Yes.

2 Q. And that for jack pine, the box on --
3 or the graph on the bottom of the page, some plaining
4 took place as early as 1957; is that correct?

5 A. That is correct.

6 THE CHAIRMAN: Where is the question, Mr.
7 Castrilli?

8 MR. CASTRILLI: It is the next question.

9 Q. In fact, Mr. Gordon, isn't it true
10 that forest regeneration extended into northern Ontario
11 as early as 1953, some 35 years ago?

12 A. Based on those tables there was some
13 regeneration work done in northern Ontario as far back
14 as then.

15 MR. CASTRILLI: Mr. Chairman, I would
16 like to introduce the next exhibit.

17 Q. I am showing you an excerpt of the
18 Ontario Professional Foresters' Handbook for 1965. You
19 have been given notice of that; is that correct?

20 MR. GORDON: A. That is correct.

21 MR. CASTRILLI: Mr. Chairman, I ask that
22 this be made the next exhibit.

23 THE CHAIRMAN: Exhibit 165.

24 ---EXHIBIT NO. 165: Excerpts from the Ontario
25 Professional Foresters' Handbook,
 1965.

1

2

THE CHAIRMAN: Is this the whole book?

3

4

MR. CASTRILLI: No, Mr. Chairman, it is excerpts again.

5

6

7

8

Q. Mr. Gordon, just looking at the forward page, the President at the time of the OFPA was Mr. A. J. Herridge. Can you confirm that he was a former Deputy Minister of Lands and Forests?

9

10

11

MR. GORDON: A. I can't specifically confirm that, but perhaps someone else on the panel can.

12

13

14

MR. ARMSON: Q. I am sorry, Mr. Castrilli, I was looking for the handbook and I missed your question about Mr. Herridge.

15

16

Q. Mr. Herridge, was he a former Deputy Minister of what was then Lands and Forests?

17

18

A. No, he was an Assistant Deputy Minister.

19

20

21

Q. ADM. Thank you.

MR. MARTEL: Was that of MNR or Lands and Forests?

22

23

24

25

MR. ARMSON: Excuse me, he was an Assistant Deputy Minister of the Ministry of Natural Resources and then moved to become the Deputy Minister in what was then the Ministry of Northern Affairs.

1 MR. CASTRILLI: Q. Just very quickly,
2 Mr. Gordon, if I can refer you to the first part of
3 this document under the heading, Section 1.1: History
4 of Forestry in Ontario, under the 1953 heading and
5 there are no pages for this.

6 Do you have that?

7 MR. GORDON: A. I have it.

8 Q. You note in the second paragraph:
9 "The reforestation policy and program of
10 the Department of Lands and Forests
11 extended into northern Ontario in that
12 year."

13 A. I note that.

14 Q. And again if we look at the very last
15 page of this document which is now Exhibit 165, the
16 fourth full paragraph on that page - there are no page
17 numbers - it would be the last page in the document.

18 The paragraph reads:

19 "In 1954 changes in the Crown Timber Act
20 inferred a responsibility by industry for
21 regeneration on their licenses and,
22 as a result, cooperative regeneration
23 programs with the province were
24 instigated. This program was preceded by
25 an increased effort starting in 1953 to

1 reforest Crown lands in northern
2 Ontario."

3 Again, Mr. Gordon, contrary to the
4 statement at page 165, do you agree with me that there
5 has been approximately 35 years of experience with
6 planting in northern Ontario?

7 A. There has been some level of
8 experience in the past 35 years with planting in
9 northern Ontario. As the graphs that you refer to
10 show, that experience in the first number of years was
11 very limited and, in actual fact most of the
12 regeneration work that has taken place in northern
13 Ontario has taken place in the last ten years.

14 Q. What do you mean by actual
15 regeneration work?

16 A. Artificial regeneration treatments.

17 Q. What was going on in 1953; weren't
18 those artificial regeneration treatments?

19 A. That is correct and I have agreed to
20 that already, that they were taking place in 1953.

21 THE CHAIRMAN: Isn't it really, Mr.
22 Castrilli, a matter of degree? The indication from the
23 witness is is that some efforts were undertaken in '53
24 but the majority or the meaningful efforts started
25 about ten years ago.

1 MR. CASTRILLI: Well, it does speak to
2 the issue of when and whether the Ministry could have
3 developed standards in the area. Did they have to wait
4 until 10 or 15 years, or were they in a position to do
5 so earlier?

6 THE CHAIRMAN: Well, why don't you ask
7 that question.

8 MR. CASTRILLI: Q. Consider it asked,
9 Mr. Gordon. Would you like me to repeat it?

10 MR. GORDON: A. No, I heard it.

11 I believe the best answer there would be
12 that you have got to recognize that forest management
13 is continually evolving and, for example, recently we
14 recognize that a reasonable survey tool to assess the
15 effectiveness of a program is through doing free to
16 grow assessments. I am sure in 1953 the concept of
17 free to grow was not known at that point in time and so
18 we are continuing to make progress and by doing more
19 and more work, we will continue to make further
20 progress.

21 Q. Since we are talking about free to
22 grow. You note in your paragraph 38, page 31, you note
23 in that paragraph:

24 "A set of benchmark free to grow
25 standards was recently prepared for each

1 MNR region."

2 Can you confirm that the province has
3 also had stocking standards for plantations to, in
4 particular, dated 1971 and 1978?

5 A. That is correct.

6 MR. CASTRILLI: Mr. Chairman, I would
7 like to introduce both of these at this time and I will
8 be asking questions about both of them over the next
9 two days.

10 THE CHAIRMAN: Very well.

11 MR. CASTRILLI: Mr. Chairman, I would ask
12 that the 1971 Province of Ontario Minimum Stocking
13 Standards for Timber Production be made the next
14 exhibit.

15 THE CHAIRMAN: Exhibit 166.

16 MR. CASTRILLI: And the Province of
17 Ontario Stocking Standards for Timber Production by F.
18 C. Robinson, dated 1978 be the next exhibit after that.

19 THE CHAIRMAN: Exhibit 167.

20 ---EXHIBIT NO. 166: 1971 Province of Ontario Minimum
21 Stocking Standards for Timber
Production.

22 ---EXHIBIT NO. 167: Province of Ontario Stocking
23 Standards for Timber Production by
F.C. Robinson dated 1978.

24 MR. FREIDIN: This is called recycling.

25 MR. CASTRILLI: Mr. Chairman, if I can

1 just have a moment's indulgence. The standards are
2 Exhibit 166?

3 THE CHAIRMAN: That is correct.

4 MR. CASTRILLI: Q. Mr. Gordon, you noted
5 that there are free to grow standards for each MNR
6 region and you have noted that there are stocking
7 standards -- there are two stocking standards, 1971 and
8 1978.

9 What is the current status of the 1971
10 and 1978 standards; do they still apply?

11 MR. GORDON: A. The regional benchmark
12 standards, with the contained stocking standard would
13 now be in effect.

14 Q. Sorry, I don't understand the answer.
15 Does the 1971 stocking standard still apply or were
16 they superseded by the 1978 ones?

17 A. They were superseded.

18 Q. And were the 1978 stocking standards
19 superseded by anything?

20 A. They were superseded by stocking
21 standards within the 1981 Regeneration Survey Manual
22 for Ontario.

23 MR. MARTEL: Well, which document
24 superseded by...?

25 MR. CASTRILLI: A document that has not

1 been provided.

2 Q. Maybe you should just give the date.

3 MR. GORDON: A. The 1981 Regeneration
4 Survey Manual for Ontario contains stocking standards
5 that would supersede 1978.

6 Q. And, Mr. Gordon, just for the record,
7 that would be Appendix 10 of that document that is not
8 an exhibit; is that right, it is the last two pages?

9 A. That is correct.

10 Q. Thank you. I suppose at some point
11 they will be filed too, but not at the moment, but I
12 will be coming back to the two that I have filed.

13 Now, just so I understand the situation
14 with free to grow standards, can you confirm, Mr.
15 Gordon, there are also free to grow standards set for
16 individual forest management agreement areas?

17 A. Perhaps Mr. Armson can answer that
18 one.

19 MR. ARMSON: A. Yes. In the document,
20 in the ground rules there is a table which specifies
21 the silvicultural specifications for the various
22 working groups or conditions, forest unit conditions,
23 harvesting method, appropriate treatments which may be
24 set in priority and the standards -- stocking standards
25 that would apply at age five.

1 Q. Now, Mr. Gordon, let me refer you
2 first to exhibit -- just confirm for me, generally,
3 with respect to Exhibits 166 and 167, can you confirm
4 for me that they both contain a heading called
5 Failure -- or a sub-heading called Failure?

6 MR. GORDON: A. That is correct.

7 Q. Is there any material differences
8 between the definition of failure in the 1971 standards
9 and the 1978 standards? They both appear at the first
10 page of each exhibit.

11 A. There is no differences.

12 Q. Can you advise, Mr. Gordon, whether
13 the recent free to grow standards which I guess appear
14 at page 177 of your evidence -- commence at page 177 of
15 your evidence, Document 17, has such a definition for
16 failure?

17 A. No, there is no such definition.

18 Q. Can you advise whether Appendix 10 of
19 the Manual that has not been filed has a definition for
20 failure?

21 A. It doesn't specifically have a
22 definition for failure in Appendix 10, but if you look
23 at the category for each working group, the rating
24 Category No. 3, that can be equated to failure.

25 MR. CASTRILLI: Perhaps, Mr. Chairman,

1 what I will have to do by tomorrow is to file that
2 document.

3 Q. Now, in paragraph 39 of your
4 evidence, Mr. Gordon, you note that:

5 "Free to grow surveys will usually be
6 carried out in year 10."

7 Is that correct?

8 MR. GORDON: A. That's correct. That
9 was a general average. As we saw, when we looked at
10 the regional benchmark standards, that will vary
11 depending on the forest unit.

12 Q. And can you confirm for me that the
13 recommended timing for assessment can be anywhere --
14 excuse me, if you look at Document 17, commencing at
15 page 177.

16 "The recommended timing for assessment
17 can be anywhere from 3 to 12 years after
18 stand establishment."

19 If you take a look at, for example, page
20 177?

21 A. Yes, for the northwestern region for
22 the forest units listed that is when they anticipate a
23 free to grow assessment taking place.

24 Q. Now, I just want to read one of the
25 definitions of failure into the record from exhibit --

1 well, from Exhibit 166. The definition reads:

2 "Regeneration assessed as failure cannot
3 be considered to be capable of producing
4 any part of the output target for the
5 unit. Further treatment, if the
6 benefit/cost ratio allows, may permit
7 reassessment."

8 And tomorrow we will look at the last of
9 the currently applicable tables for 1981 and it is your
10 understanding that there is a comparable definition?

11 A. Where?

12 Q. In what is known as Appendix 10?

13 A. No, no, by looking at Appendix 10 and
14 understanding what the rating categories are, you can
15 see what is the stocking standard -- what the stocking
16 level must be or not be to be declared a failure.

17 Q. Okay. We will do that tomorrow.

18 Now, I understand, Mr. Gordon, that
19 funding constraints have limited full-scale data
20 collection surveys of regeneration effectiveness; is
21 that correct?

22 A. That is correct.

23 Q. And that the Ministry of Natural
24 Resources is providing the Board with summaries of
25 survival data taken from five management units

1 considered to have relatively comprehensive records; is
2 that correct?

3 A. That is part of our evidence, that is
4 correct.

5 Q. Do you agree with me that for a
6 program such as the Forest Production Policy, where
7 hundreds of millions of dollars have been spent since
8 1972, it is unfortunate that not enough funds were left
9 over to determine how well the work was done for all of
10 the management units?

11 A. I would agree that it would be more
12 fortunate to have collected more data, that is correct.

13 Q. And would you agree that for
14 forecasting into the future, the nature of the expected
15 crop is important?

16 A. That is correct.

17 MR. CASTRILLI: Mr. Chairman, I have
18 another interrogatory that would be appropriate to file
19 at this time. (handed)

20 Mr. Chairman, I ask this be made the next
21 exhibit.

22 THE CHAIRMAN: Exhibit 168.

23 ---EXHIBIT NO. 168: Interrogatory Question No. 12
24 posed by CELA.

25 MR. CASTRILLI: Q. I ask you to look at

1 our Question (B) and your answer (B).

2 We asked for the provision of statistics
3 on natural and artificial regeneration success for the
4 period 1980 to date for the area of the undertaking on
5 a district, regional, provincial basis or by an FMA,
6 Crown management unit basis.

7 And your answer is found at the bottom of
8 what is now Exhibit 168 and it states:

9 "There has been no comprehensive program
10 of data collection in this area due to
11 limited resources."

12 And you refer to paragraph 40 we have
13 already referred to. By way of example, we have
14 summarized second year survival data for five
15 management units, and you refer to the documents and
16 have provided the provincial summary which is also part
17 of that material.

18 Now, in your evidence you say that --
19 let's go back a step. With respect to your answer (b)
20 can you advise the Board what percentage of the areas
21 regenerated naturally and artificially have not had
22 regeneration assessments?

23 MR. GORDON: A. Could you repeat that
24 again, please?

25 Q. Yes. What percentage of the areas

1 regenerated naturally and artificially have not had
2 regeneration assessments?

3 A. I cannot give an exact percentage,
4 but a significant proportion.

5 Q. A significant proportion have not;
6 Is that correct?

7 A. Received some type of assessment,
8 that is correct, in a formal sense.

9 Q. A significant proportion in a formal
10 sense. Can we have a range? What do you mean by a
11 significant proportion, more than 50 per cent?

12 A. I have no data that can allow me to
13 come up with a specific percentage, but that would be a
14 reasonable estimate, more than 50 per cent.

15 Q. More than 50 per cent have not?

16 A. Received a formal assessment whereby
17 we go out and do surveys and record things on a piece
18 of paper as to what we find.

19 There is no question that there will be
20 what I would call informal surveys that would cover
21 probably a significant portion of the area we are
22 discussing such as what I call our ocular surveys, but
23 in many cases, the results of such surveys are not
24 written down.

25 Q. So the more reliable of the two

1 surveys would be the formal; is that correct?

2 A. Not necessarily, so.

3 Q. Your testimony is that a formal
4 survey would be less reliable than an informal survey?

5 A. My testimony is that depending on the
6 type of site and stand condition you are looking at a
7 formal survey may or may not be -- may or may not give
8 you a better indication of what is going on there than
9 an informal or ocular survey where you walk through
10 that stand.

11 Q. That is very interesting. Paragraph
12 40 you indicate the five management units have had
13 relatively comprehensive records. Can we conclude, Mr.
14 Gordon, that the other approximately 112 do not?

15 A. No.

16 Q. What should we conclude about the
17 other 112, Mr. Gordon?

18 A. That the records we are talking about
19 will be at varying levels, at varying levels of detail
20 and comprehensiveness.

21 Q. In other words, some are more -- the
22 others will be less reliable than the five we have
23 here?

24 A. I really cannot comment on that
25 because I haven't seen the records from all the other

1 management units.

2 MR. CASTRILLI: Let's wait until the
3 train leaves. It is a slow train.

4 THE CHAIRMAN: It is not getting any
5 better, Mr. Castrilli.

6 MR. CASTRILLI: It must that the railroad
7 doesn't like us.

8 Q. Mr. Gordon, perhaps you could advise
9 the Board who chose the five management units that we
10 see listed on page 32 of your evidence?

11 MR. GORDON: A. A Mr. Patrick Corbett.

12 He is basically -- he is presently a
13 forester working for the Ministry of Natural Resources
14 based out of Kenora and at the time that we made the
15 decision to go and collect this data, he was working
16 Forest Resources Branch.

17 Q. Can you advise the Board on what
18 basis these five management units were chosen?

19 A. I had direction discussions with Mr.
20 Corbett because I anticipated such a question at the
21 hearings, and the basis was that he attempted to go to
22 the units with the best-kept records.

23 And the way he made that decision was by
24 contacting regional representatives and asking them
25 where the best records were, where the best paper trail

1 would be, so that he could get some data to aggregate.

2 Q. Best-kept records?

3 THE CHAIRMAN: Sounds like some real
4 Sherlock Holmes stuff.

5 MR. CASTRILLI: Q. Mr. Gordon, would you
6 agree with me that poor records equal poor management?

7 A. No.

8 Q. Poor records equal good management;
9 is that your testimony?

10 A. No.

11 Q. What is your testimony with respect
12 to the question; yes or no?

13 A. I assume --

14 Q. Poor records --

15 A. I assume that what you meant was poor
16 records equal poor forest management and, therefore, I
17 said no, not necessarily so. Nor do good records
18 necessarily equate to good forest management. And, in
19 that context, I gave my answer.

20 Q. Is it your testimony that poor
21 records contribute to good management?

22 A. No.

23 Q. Thank you. Would you also agree with
24 me that you must know what work you have done in order
25 to follow through on any successive regeneration or --

1 excuse me, any successive treatments necessary?

2 A. You must not only know what work has
3 taken place, but how the results of that work are
4 performing.

5 Q. So your answer to my question is yes,
6 plus?

7 A. That is correct.

8 Q. Would you agree with me, Mr. Gordon,
9 that if you do not have the records, the next forester
10 will not know what areas to treat, the next forester on
11 the management unit?

12 A. It may make it more difficult for the
13 next forester. There are other things to consider such
14 as: Very often when you do have some turnover in the
15 professional staff of foresters, there very often are
16 technicians who do not leave the unit at the same time
17 and so, therefore, when the new unit forester shows up
18 he can discuss what work has taken place previously
19 with the technicians that are on the unit and, thereby,
20 find out where the work has taken place.

21 As well, there will be records of the
22 areas that are depleted, and it has been my experience
23 that the work usually takes place within the areas that
24 are depleted and these areas are recorded on maps.

25 Q. Aren't maps part of records?

1 A. That is correct. I assume in this
2 discussion you are talking about assessment records?

3 Q. That is right. Would you agree with
4 me that Ministry of Natural Resources unit foresters do
5 not tend to remain on management units for a long
6 period of time?

7 A. It probably varies and I really
8 haven't looked at any statistics.

9 Q. Let's look at pertinent statistic
10 relating to yourself. Would you turn to page 11, it is
11 a portion of your curriculum vitae. We look under the
12 heading: July, 1985 to May, 1986 you see that you were
13 a unit forester at Steel River Crown management unit
14 for that period of time. It is less than a year; is
15 that right?

16 A. That is correct.

17 Q. So it is not uncommon for unit
18 foresters to be on units for a relatively short period
19 of time; is that right?

20 A. If you have interpreted what you are
21 reading correctly and extrapolate, however, if you look
22 at my CV, I began in Manitouwadge in May, 1977. I was
23 in that district for ten years and only for a brief
24 period of time, I believe about 1.3 or four years was I
25 not the unit forester on the Steel unit.

1 So in my -- and when I was not the unit
2 forester on the Steel Unit I was the acting forest
3 management supervisor and directly supervised the
4 project forester who was carrying out some of my
5 previous responsibilities. In actual fact I was the
6 unit forester for ten consecutive years.

7 Q. With great respect, Mr. Gordon, that
8 is not what your page 11 tells us; does it? Does it
9 say that you were a unit forester for ten years
10 anywhere in your CV, particularly under the heading?

11 A. No, it doesn't come right out and say
12 that, but if you turn to page 12, you can see from
13 June, 1977 to November of 1984 I was the unit forester
14 on the Steel River Crown management unit.

15 For a brief period of time, December, '84
16 to June, '85 on page 11, I was the acting forest
17 management supervisor. I then returned to the same
18 unit that I had been acting on previously and then
19 after that, as you can see at the bottom of page 10, I
20 again became the acting forest management supervisor in
21 the district where the Steel River Crown management
22 unit was located.

23 THE CHAIRMAN: Mr. Castrilli, wouldn't it
24 be reasonable to assume that a unit forester could be
25 on a unit for two days or up to 20 years or 30 years or

1 50 years. I mean, surely there has got to be a range.

2 And the fact that this particular
3 forester was on a unit for "x" numbers of years and he
4 has indicated he has not looked at the stats to find
5 out what the average is, where are we going here?

6 MR. CASTRILLI: Mr. Chairman, I think it
7 is critical to recognize the great turnover in unit
8 foresters in the various management units. When you
9 couple the great turnover with the condition of the
10 records, surely you cannot be contributing to
11 understanding the success of regeneration assessments.

12 THE CHAIRMAN: Well, ask the witness
13 whether there is, you know, a great turnover of unit
14 foresters and then approach it that way.

15 What I am trying to say...

16 MR. CASTRILLI: I actually thought I did.

17 Q. Mr. Gordon, do you have any knowledge
18 with respect to that?

19 MR. GORDON: A. All I can do is speak to
20 you about my own experience and what I have noted on
21 adjacent units in Terrace Bay District and adjacent
22 districts. And when I showed up in 1977 there appeared
23 for seven, eight years at least in that part of the
24 province to be a fair bit of stability and then there
25 was some turnover in the recent years.

1 THE CHAIRMAN: Well, Mr. Armson is the
2 Chief Forester.

3 Mr. Armson could you shed some light on
4 this question, please?

5 MR. ARMSON: Probably not very much. But
6 in 1975-76 I did in fact determine the rate of turnover
7 and at that time I had to take into account the
8 reorganization of the Ministry.

9 I cannot at this time give you the
10 average rate of turnover. I would note, however, that
11 in 1976 I concluded that a period of five years was
12 probably a reasonable period and, in fact, I suggested
13 somewhat of a contractual mechanism whereby that might
14 be renewed or otherwise and it is my opinion, sir, that
15 the absolute amount of years is probably not really
16 much of a criterion to use.

17 One may have someone on a long -- for
18 many years, maybe decades on a unit - and I do we
19 believe we do have foresters of that - but whether or
20 not that should be the criterion to apply as to whether
21 you get effective management is a question in my mind.

22 MR. CASTRILLI: Q. And you don't think
23 that if there is a high turnover, Mr. Armson, coupled
24 with poor records there is not going to be a problem
25 with determining which regenerations -- where

1 regeneration treatment should take place and what their
2 ultimate success will be?

3 MR. ARMSON: A. That is correct. That
4 where you do have a turnover - but, as Mr. Gordon has
5 very properly pointed out - the turnover in unit
6 foresters cannot be considered separate from the
7 existence of senior technicians who in fact are there.

8 And also I would point out to the Board
9 that, in fact, there are a large number of different
10 kinds of informal records in the -- some of the senior
11 foresters here will remember that some years ago and
12 certainly in the 60s, Dr. Walter Plonski in his own
13 work in the Ministry established what was called a unit
14 forester's memobook in which he -- he didn't demand,
15 but he certainly was very strong in encouraging
16 foresters to keep that book, to keep records of
17 important items in terms of their management results
18 and assessments.

19 And there are, in fact, many records of
20 an informal nature in individual units. They are not
21 consistent and they are not necessarily in all the
22 units, but they do form part of a basis.

23 That is in no way excusing the fact that
24 there aren't consistent. And I believe earlier in my
25 direct evidence I pointed to this fact of the need for

1 consistent and appropriate types of information.

2 I chaired a committee on unit foresters
3 and that was one of the recommendations that there be
4 not only consistent records, but we return to a, if you
5 like, some form of a unit forester's book which could
6 be an electronic type of information system at each
7 unit that information could be collected.

8 MR. FREIDIN: Mr. Martel, pardon me. I
9 can take that under advisement and advise the Board
10 whether something along those lines could be filed with
11 the Board.

12 MR. CASTRILLI: Q. Mr. Armson, Mr.
13 Gordon, do you agree with me that if the other 112
14 units do not have records or adequate records, nobody
15 is in a position, including this Board, to know whether
16 those other 112 units have successful plantations.

17 Mr. Gordon?

18 MR. GORDON: A. I can't say whether or
19 not a portion of those other units have or have not
20 adequate records. The five units that were chosen were
21 considered to have some of the most comprehensive
22 records. As to whether or not -- could you ask your
23 question, again, please?

24 Q. Yes. If the other 112 units do not
25 have the records how do we know and, more importantly,

1 how does the Board know that they have the more
2 successful plantations?

3 A. On the assumption - and I say on the
4 assumption - that those 112 units do not have adequate
5 records, then it is very difficult for us to put in
6 front of the Board paper that shows how the plantations
7 are doing, excepting when you carry out surveys such as
8 SOARS.

9 Q. Well, just to go back to your
10 response to our interrogatory and I presume you wrote
11 this one, what is now Exhibit 168:

12 "There has been no comprehensive program
13 of data collection in this area due to
14 limited resources."

15 So the real question does come down to,
16 even if you have the records, you don't know whether
17 the plantations are successful; isn't that right, on
18 the other 112 units?

19 A. I am not following your logic here.
20 Can you rephrase that, please?

21 Q. Your response to our interrogatory
22 Exhibit 168 says:

23 "No comprehensive program of data
24 collection in this area due to the
25 limited resources."

1 If you haven't done the data collection,
2 how can you assume that there are successful
3 plantations on the other 112 units or, indeed, what the
4 rate of success is on the other 112 units?

5 A. There will have been some data
6 collection done on the other units.

7 Q. Which you are not reporting here; is
8 that correct?

9 A. That is correct.

10 Q. So the Board is no position to verify
11 your statement; is that correct?

12 A. I am sorry, Mr. Castrilli, what
13 statement?

14 Q. Well, are you taking the position
15 that the others that we have not seen do have
16 successful plantations?

17 A. There is no question that there will
18 be successful plantations on most of those units.

19 Q. And I am asking you: How is this
20 Board in a position to verify that statement since you
21 have not collected the data and you have not presented
22 it to this Board, other than for the five units we have
23 here?

24 A. Well, if we don't spend the money to
25 go and collect the data that we do not have to present

1 to the Board, there is only one way that I can think
2 of the Board making such an assessment.

3 Q. Doing the assessments themselves?

4 A. By going and looking.

5 Q. Is that what you are recommending?

6 THE CHAIRMAN: At 112 units?

7 MR. GORDON: No, no, I am not
8 recommending that. I am not recommending that at all.
9 I am answering Mr. Castrilli's question.

10 MR. CASTRILLI: Q. So your answer is:
11 The only way the Board can verify your statement is to
12 go to the other 112 units, save and except that
13 approach, they can't do it; is that right?

14 Mr. Gordon it is a simple question.

15 MR. GORDON: A. At this point in time we
16 have not spent the money on a comprehensive data
17 collection program and so, therefore, we cannot present
18 such results to the Board.

19 THE CHAIRMAN: Mr. Gordon, what would
20 your estimation be firstly, of the cost - I do not know
21 if that is a fair question just to throw at you - but,
22 secondly, the time involved to gather such data?

23 MR. GORDON: In other words, to carry out
24 a ground survey in the plantations that we have been
25 starting since 1953.

1 THE CHAIRMAN: For 112 units for which
2 you do not have the data available?

3 MR. GORDON: All I can say, I would have
4 to try and do some calculations, but off the top of my
5 head an awful lot of money and an awful lot of time.
6 And I am sure it can't be done in one, two, three, or
7 four years.

8 THE CHAIRMAN: So you are talking about
9 in excess of four years?

10 MR. GORDON: We are talking about a long
11 period of time here and a lot of money and a lot of man
12 hours.

13 THE CHAIRMAN: Well, is the money in the
14 millions or the thousands or what?

15 MR. GORDON: I can't make an estimate
16 like that off the top of my head.

17 MR. ARMSON: I can't quote exactly the
18 cost of the SOARS survey, but I believe - and this is
19 subject to correction - that the survey that was
20 undertaken and that was of a very limited areas in
21 terms of the areas that had been planted and seeded, as
22 the Board knows, I believe that was something over --
23 it was certainly in the order of a half a million or
24 more for the three northern regions.

25 It was then something of that same order

1 of magnitude, I think it may have been a little less
2 for the northeastern and Algonquin regions.

3 We are talking in terms of the projects
4 and the areas. If we were talking in totality, we are
5 talking millions of dollars.

6 THE CHAIRMAN: Shall we adjourn, Mr.
7 Castrilli, until we get it done?

8 MR. CASTRILLI: My question was directed
9 to whether they had collected any over the last years.
10 I am talking about the records they do, I am not
11 talking about going out and doing new field work.

12 Q. What would it cost simply to father
13 your records? Are you telling me it is not capable of
14 being done?

15 MR. ARMSON: A. I can't answer the
16 question about costs, but there are a number of what I
17 would call proxy measures that have been illustrated or
18 mentioned to the Board.

19 One was the NSR surveys which have been
20 conducted for candidate forest management agreement
21 areas. Another one would be SOARS.

22 There are -- for example, the inventory
23 and the re-inventory of areas is another one. It
24 doesn't necessarily identify plantations as such, but
25 it certainly identifies the areas and the stands are

1 demarcated and it is within a given unit, then the
2 forester there can match up that with the areas that
3 have been treated in the past.

4 So there are a number of proxy measures
5 that not only exist but have and are being used. The
6 fact of the matter is they can't be necessarily
7 aggregated to answer certain of the very specific
8 questions that Mr. Castrilli has asked.

9 THE CHAIRMAN: Okay. Mr. Castrilli, the
10 Board is not trying to be facetious but we are facing a
11 very practical or maybe facing a very practical
12 limitation. If the data does not exist in the form you
13 are seeking and it will take a very considerable time
14 to put that data together at a very considerable cost,
15 what do we do at this stage?

16 MR. CASTRILLI: Mr. Chairman, my
17 questions were not leading up to a request for an
18 undertaking to produce.

19 THE CHAIRMAN: No, no, I understand that,
20 but I mean, what do we do practically at a point in
21 time where in the process, in the information being put
22 forward to the Board there may be a gap in the data?

23 MR. CASTRILLI: I think that one thing
24 the Ministry of Natural Resources has an obligation to
25 the Board to do in those circumstance is to make it

1 clear what they cannot conclude.

2 And so my questions have been directed to
3 that. Such as, if the other units do not have records
4 in a manner that are understandable or collectable or
5 retrievable by the Ministry, is the Ministry in a
6 position to say that there are successful plantations?

7 MR. FREIDIN: Mr. Chairman, I think the
8 evidence of this panel and earlier panels has indicated
9 the basis upon which the Ministry is indicating what it
10 does know or what it feels it can reasonably indicate to
11 the Board has happened out in the field, out in the
12 forest over time.

13 They have referred to the proxy measures,
14 they have have referred to by Mr. Armson. The evidence
15 has been given by professional foresters whose
16 credibility is an important matter for the Board to
17 assess.

18 Combining that with site visits based on
19 all of that evidence and then further evidence to come,
20 the Ministry is going to be making submissions to the
21 Board that their evidence be accepted, their proxy
22 measures be accepted and the Board can make some
23 reasonable extrapolations as to whether that
24 information is applicable across the board.

25 THE CHAIRMAN: Okay. As long as it is

1 clear that the Board ultimately will have to assess,
2 based on the evidence, whether whatever conclusions you
3 are drawing from whatever data is available, those
4 conclusions should be given whatever weight and that
5 would for the Board to decide.

6 And you can put forward your side, Mr.
7 Castrilli, which is based on the data that they have we
8 shouldn't give those conclusions a particular weight or
9 any weight or whatever.

10 Is that not a fair appraisal of where we
11 sort of are on this question?

12 MR. CASTRILLI: Yes, given where the
13 Ministry's retrieval system is, I think that's entirely
14 fair.

15 MR. MARTEL: I want to ask a question.
16 Is it fair to assume that senior staff has put in place
17 a process over the last eight or 10 years, but that in
18 fact the monitoring that is required to ensure that
19 what senior staff expects is in fact what is occurring
20 out in the forest?

21 Is there a gap, a shortfall or a gap on
22 what is planned and checking to make sure that that in
23 fact is occurring?

24 I guess, Mr. Armson, I want to direct the
25 question to you because...

1 MR. ARMSON: Well, Mr. Martel I am going
2 to refer this to Mr. Cary, but there is - and I was
3 directly involved when I was Executive Coordinator and
4 other people have been before and after - a process of
5 monitoring by main office of regions. That has been
6 already alluded to.

7 Mr. Cary was very much involved in that
8 and in the undertaking of those audits and I think
9 perhaps he might best speak to that.

10 MR. CARY: Mr. Martel, main office
11 conducts audits of the regions; two a year, one
12 northern and one southern and we examine the regional
13 program in order to confirm the material that the
14 region submits and to make sure that they have
15 delivered the program that they say they have
16 delivered.

17 So we look at the total forest management
18 program, not only planting trees, but we look at
19 silviculture, we look at management planning, we look
20 at their performance under the Forest Production Policy
21 Implementation Schedule, we look at scaling, for
22 example, wood measurement. So there is a comprehensive
23 audit carried out once every five years by Forest
24 Resources group of regional activity.

25 We ensure that there are mechanisms in

1 place to do that and if there aren't, we recommend that
2 they take action and the field Assistant Deputy
3 Minister, both north and south, are responsible for the
4 implementation of those audit recommendations.

5 Now, with regard to assessment of
6 plantations, for example, that is a regional function.
7 We ensure that there is a process whereby that can be
8 carried out. Whether it is carried out or not, as Mr.
9 Gordon has alluded, is a function of prioritization of
10 money, staff availability and all those other things.

11 MR. MARTEL: Okay, can you stop there
12 then. Let me just -- because in fact that is why I
13 asked the question, I mean - and let me repeat it -
14 has main office put in place something, a plan a whole
15 series of things, but are they actually getting what
16 they think they are getting in terms of the actual
17 forest.

18 I mean, it is nice to put a theory on the
19 wall or on paper, but unless you have the process for
20 monitoring it, then it is paper.

21 MR. CARY: Yes. The audit is just one
22 way that we monitor progress. There are other ways;
23 the 20-year FRI update, for example, looks at that
24 forest on the management unit at regular bases and
25 that's hard data.

1 So there are many ways of making -- of
2 checking to see how these efforts have proceeded. We
3 will be talking about monitoring very specifically in
4 Panel No. 16 and going through all of those processes
5 in detail during that panel.

6 THE CHAIRMAN: Would you expect the
7 results of this hearing, when and if it ever finishes,
8 to be putting in place a monitoring program which would
9 not allow for the discrepancies in data collection that
10 appear to have occurred in the past?

11 MR. CARY: It would be my --

12 THE CHAIRMAN: Do you see it as part of
13 this Board's mandate?

14 MR. CARY: In my opinion I see that as a
15 very important part of your consideration, yes, sir.

16 MR. CASTRILLI: Q. Mr. Gordon, I wonder
17 if you can just confirm something for me. On page 232
18 of your evidence, the fourth listed management unit on
19 that page, it is called the Plonski Forest.

20 MR. GORDON: That is correct.

21 Q. Can you confirm for me that that
22 forest formally was known as the Englehart Management
23 Unit?

24 A. That is correct.

25 Q. And that is the same management unit

1 that Mr. Armson did his study on for FLC Reed in 1978,
2 Mr. Armson; is that right?

3 MR. ARMSON: A. That is right, in the
4 jack pine working group.

5 Q. And it is the same forest unit that
6 Dean Baskerville looked at in 1986; is that correct, in
7 his audit?

8 A. I believe that's correct.

9 Q. Plonski is a model unit; is it not?

10 MR. GORDON: A. It is sometimes called
11 by some foresters a demonstration forest.

12 Q. And as a demonstration forest it
13 would tend to have better results; would it not, not
14 just better records?

15 A. I wouldn't draw that conclusion.

16 Q. It seems to be one of the Ministry's
17 favorite units for purposes of investigations though,
18 doesn't it?

19 MR. ARMSON: A. Mr. Chairman, if I might
20 speak to that since I have been involved personally on
21 that unit both in the university and since that time
22 certainly until the late 70s.

23 The Englehart Management Unit was one of
24 two units, I believe - there might have been a third
25 one - but the other one was the Petawawa unit but when

1 they were established in the early days of management
2 planning they were being used, if you like, somewhat as
3 guinea pigs or demonstrations.

4 The area of the Plonski forest also
5 contains a major nursery within its boundaries and as a
6 result of that and the level of activity and also the
7 fact that Dr. Plonski himself took a very personal
8 interest in that area, the records of that unit, in my
9 opinion, would be some of the best, most comprehensive
10 and certainly most continuous records that exist in
11 this province for any unit within the area of the
12 undertaking. There may be one or two that come close
13 to that.

14 The statement that if the records are
15 comprehensive - and they are, there is no question
16 about that - that the management has been most
17 successful does not necessarily follow. There have
18 been some significant areas in the management of the
19 forest there where there have been major problems that
20 have not been totally overcome.

21 The management of the jack pine working
22 groups has been most successful. In other areas,
23 particularly with the spruce working group, there have
24 been some major difficulties. And I just point out
25 that because it is a demonstration area it doesn't mean

1 that everything that is done there is always
2 successful.

3 Q. Mr. Armson, can you confirm for me
4 that on the Plonski unit there is a lot of jack pine
5 and, in fact, there is not much variation on it?

6 A. There is a considerable amount of
7 jack pine. I am not sure what, Mr. Castrilli, means by
8 variation.

9 Q. Other working groups?

10 A. Well, there is a jack pine working
11 group, there is also a spruce working group. Again,
12 I'm --

13 Q. What is the predominant amount?

14 A. The jack pine -- offhand I can't give
15 you a figure, but certainly a significant working
16 group, probably one of the most significant working
17 groups is jack pine, yes.

18 Q. And it's significant in terms of
19 amount?

20 A. Yes.

21 Q. By area?

22 A. By area, yes.

23 MR. CASTRILLI: Thank you.

24 Mr. Chairman, this would be a good place
25 to stop.

1 THE CHAIRMAN: Very well. We will
2 adjourn until tomorrow at 9:30 a.m.
3 ---Whereupon the hearing adjourned at 4:50 p.m., to
4 reconvene on Wednesday, August 17th, 1988,
5 commencing at 9:30 a.m.

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